

WARD AND LOCK'S
POPULAR
LAW DICTIONARY;

FORMING A CONCISE

•
COMPENDIUM

OF THE

COMMON AND STATUTE LAW OF ENGLAND
AND WALES,

INCLUDING TECHNICAL TERMS, HISTORICAL MEMORANDA,
LEGAL POINTS, AND PRACTICAL SUGGESTIONS

ON AN

IMMENSE VARIETY OF SUBJECTS OF GENERAL INTEREST
RELATING TO THE EVERYDAY BUSINESS AND
CONTINGENCIES OF ORDINARY LIFE.

*Alphabetically arranged for ready reference; with Details on
Leading Topics.*

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PREFACE.

A PLEA of ignorance of the law is no defence against an infringement of it. Theoretically every Englishman is presumed to be acquainted with the laws of his country; practically, of course, such an extensive knowledge is an impossibility. Ordinarily, if a legal difficulty present itself—if a person find himself in a position where he is in doubt, from want of knowledge and experience, as to the proper course to take—he very prudently obtains professional assistance, and acts under the advice of a solicitor, whose business it is to guide his client into the right path, and supply, by his knowledge of legal procedure and legal rights, usages, and remedies, the imperfect acquaintance of his client with matters connected with the law.

This professional advice, however, though of great value, is expensive; and if a substitute for it can be obtained in a carefully compiled abstract of the provisions of the law relating to such matters as are likely to affect the ordinary relations of social and business life, expense, trouble, and no small amount of mental worry, may be spared. But such information must be perfectly trustworthy and easily accessible. Not the least advantage of such a work will be that it will guard from many expensive mistakes and complications persons who imagine they have a sufficient knowledge of ordinary legal matters to enable them to dispense with professional assistance, or are disposed to rely upon the advice of friends whose pretensions to acquaintance with legal matters are very frequently based on the slightest foundation.

PREFACE.

Various attempts, some very successful, have been made to popularise legal knowledge, and convey necessary information in an intelligible manner, with as little intrusion as possible of technical phraseology, generally so perplexing to untrained readers. The greater number of these "Handbooks," as they are in some cases styled, form separate treatises, devoted to special subjects; and they are valuable from the care and knowledge exhibited in their compilation, and from the convenient manner in which the leading points of complex subjects are presented, so as to afford the desired information in the readiest and most intelligible manner. Other books form useful Encyclopædias, as they may be termed, of correct legal information, most carefully popularised in style and easily understood. The extensive circulation of some works of this kind proves the desire of the general public to obtain authentic information on subjects which relate to their social and business interests, and the success with which publishers have exerted themselves to supply this almost universal demand. It has been thought, however, and it is believed that the suggestion will meet with general acceptance, that the adoption of the *Dictionary*, or *Alphabetical*, method of arranging the information given, will greatly facilitate reference, and place before the inquirer all necessary assurance respecting the matter on which he requires it.

The title of the work describes its scope: it is a *Dictionary of Legal Terms and Phrases*, a *Compendium of the Existing Law* on all subjects likely to affect the interests of persons engaged in the ordinary transactions of everyday life.

POPULAR LAW DICTIONARY

Abactor is a person who feloniously drives away more than one head of cattle.

Abandonment is a term in marine insurance, whereby the owner of the wrecked ship makes over to the insurers all property in the ship upon the insurers paying the full amount insured. Acceptance of the abandonment commits the insurers to payment of the full amount insured, unless otherwise expressly agreed.

Abatement is when one of the parties to an action retires from it.

Abator is a person who wrongfully gets possession of a freehold in the absence of the rightful heir.

Abbroachment is forestalling a market by purchasing the goods intended to be offered at the market, with the intention of selling them at an enhanced price, to the prejudice of the ordinary purchasers in the market.

Abdication. The formal act by which a king resigns the crown. It seems difficult to say what is necessary to be done to constitute a direct abdication. There are but two precedents. As for that of Edward II., it is very doubtful whether he really did resign the crown, or, if he did so, by what formal act he did it. In the case of Richard II., the king is said to have promised to resign the crown, and on being reminded of this promise, while a prisoner in Conway Castle, he replied that he was ready to perform it. Thereupon a paper was given him to read, in which he was made to absolve all his subjects from their fealty and allegiance, to renounce all kingly authority, and to acknowledge himself

incapable of reigning, and worthy to be deposed. The case of James II. is one of an indirect or constructive abdication. When, on the landing of the Prince of Orange, James fled out of the kingdom, the Convention Parliament (see title "Convention Parliament") adopted a resolution which declared: "That King James II., having endeavoured to subvert the constitution of the kingdom by breaking the original contract between the king and people; and having, by the advice of Jesuits and other wicked persons, violated the fundamental laws and withdrawn himself out of the kingdom, has *abdicated* the Government, and that the throne is thereby vacant."

Abduction is the taking away of any child or female from the lawful control of another. The abduction of a child is a criminal offence; in other cases only actionable.

Abeyance is applied to an estate in chancery or otherwise where possession or right therein is suspended.

Abigean is the felonious driving away of live stock.

Abjuration, Oath of, prescribed by 13 & 14 William III. c. 6, for disavowing allegiance to any pretender to the crown. Now repealed.

Absconding Debtors, in bankruptcy, are liable to arrest and punishment under the Act 33 & 34 Vic. c. 76.

Abstract of Pleas is a statement of the ground of defence in an action.

Abstract of Title is an abridged statement of the title to landed property.

Acceptance is the endorsement upon a bill, undertaking to meet the engagement expressed in the draft. It is sufficient for the acceptor to write his name after the word "accepted." The drawer can refuse to take the bill if the acceptance does not state where it is payable; but such statement does not add to the obligation of the acceptor.

Acceptance for honour is effected by adding "for honour." In which case the acceptor is bound if the person upon whom the bill is drawn fails to meet it. See "Accommodation Bill."

Accepting service is when a solicitor receives a writ or other document on behalf of a client. If he does so he is liable for the consequences.

Accession is the acquisition of property by right of occupancy.

Accessory is one who knows of a crime. If he is aware of the intention he is said to be "accessory before the fact;" if he

aids the criminal to escape from the consequences of the crime he is "accessory after the fact."

Accessory in cases of Adultery is when a petitioner for divorce is proved to have permitted, connived at, or approved the adultery alleged. Such accessory is not entitled to divorce even though the adultery be proved.

Accident may be pleaded as a ground for interference in equity with any contract affected by the accident alleged. Loss of any deed or document may be regarded as an accident.

Accommodation Bill is one accepted for the benefit of the drawer, who becomes responsible for the amount to the acceptor upon his honour of the bill.

Accord is when a plaintiff and defendant have arrived at such an understanding as bars action.

Acknowledgments by Married Women, which were formerly necessary to the transfer of lands in certain cases, and in some other contingencies, are rendered obsolete by the Married Women's Property Act, 1882.

Acquittance is a discharge expressed in writing for the payment of money or the fulfilment of any obligation.

Act of God is a legal expression denoting some occurrence over which it is impossible for man to exercise control.

Act of Indemnity is any special Act of Parliament for the exoneration of any person or persons with reference to pre-existing circumstances of any kind.

Act of Law is when anything occurs or accrues in the course of law, without any special interposition.

Act of Naturalization is an Act for conferring upon a foreigner the entire or partial rights of a British subject.

Act of Parliament. See "Statute."

Act of Settlement, 12 & 13 Will. III. c. 2, by which the succession to the Crown of England is governed.

Act of Supremacy, 1 Eliz. c. 1, upon which the ecclesiastical supremacy of the Crown is based.

Act of Toleration. See "Toleration Act."

Act of Uniformity, firstly, 1 Eliz. c. 2; and secondly, 13 & 14 Car. II. c. 14, the latter being the one usually referred to as such, the object and effect of which was to enforce uniformity of ritual in the Church of England, to a considerable extent thereby attained. The second Act relaxed by 35 & 36 Vic. c. 85.

Action is defined as a lawful demand of a right according to the forms prescribed for the time being for pursuing such

right. An action may be either civil or penal; the former for the attainment of property in some form, as a debt; the latter for the enforcement of some penalty for a wrong committed.

Actuary is the designation of a clerk of convocation; but it latterly applies to persons who profess to calculate the probabilities of life, death, and other risks, in which insurance offices are concerned.

Ademption of a Legacy is the revocation of a bequest under a will.

Adjudication is the decision arrived at by any court of justice.

Adjustment, in marine insurance, is the settlement of the amount due to the insured, and from the respective underwriters.

Administration is a word that occurs in many legal contingencies, but popularly applies to the disposal of an intestate estate, which can only be done by an accredited administrator.

Administrator is a person who is entitled to dispose of the estate of a person who has died without leaving a valid will, or who has made a will without naming an executor. The widower or widow respectively is primarily entitled to administration, otherwise the next of kin has the legal claim. Whoever materially interferes with an intestate's property is bound to administer, unless some one else accepts the office. A widower is not required to take out Letters of Administration, but any one else who presumes to administer must obtain such letters, which are a necessary licence to proceed, and without which heavy penalties are incurred. A married woman could not formerly act as administratrix without her husband's consent, but such consent is no longer necessary.

Admiral, The Lord High, of England, an ancient officer of high rank, who not only was entrusted with the government of the navy, but who, long before any regular navy existed in England, presided over a court with authority to hear and determine all maritime causes, and to take cognisance of all offences committed on the sea. It is uncertain whether the title of office of Lord High Admiral existed before the time of Edward I.; but in the reign of this king, in 1286, W. de Leybourne was appointed to the office, and from the time of Edward II. we have a regular and uninterrupted succession of Lord High Admirals. The office was afterwards divided; but in the reign of Henry IV. the office became permanently vested in one person.

In 1632, the office of Lord High Admiral was for the first

time put into commission, all the great officers of State being the commissioners. During the Commonwealth a committee of Parliament managed the affairs of the navy. At the Restoration, James, Duke of York, was created Lord High Admiral; but his commission was subsequently revoked by Charles II. James, on coming to the throne, declared himself in council Lord High Admiral and Lord General. In the 1st of William and Mary, the Admiralty was again put into commission. In the reign of Anno, George, Prince of Denmark, was created to the office, with a council to assist him; but in 1708 it was again put into commission, since which time the office has continued to be executed by Lords Commissioners of the Admiralty, except for one year (1827-1828), when the Duke of Clarence held the office of Lord High Admiral. All the *droits of admiralty*, as they are called, with all the fees, emoluments, perquisites, &c., of the office, were surrendered by George, Prince of Denmark, to the nation; and in lieu of them the Lords Commissioners have since been paid by salary, the salary of the First Lord having, in recent times, been made up to £5,000 a year. The principal business of the Lords Commissioners is to govern the affairs of the navy; the judicial duties of the Lord High Admiral are performed in the Court of Admiralty.

The constitution of the Board of Admiralty has latterly undergone great modifications. It now consists of five members: the First Lord, always a member of the Cabinet, and four assistant commissioners, styled respectively, Senior Naval Lord, Third Lord, Junior Naval Lord, and Civil Lord. Under the Board is a Financial Secretary, changing, like the five lords, with the Government in power; while the fixed administration, independent of the change of political parties, consists of a Permanent Secretary, and the heads of five departments, called Accountant-General of the Navy, Comptroller of Victualling, Director-General of the Medicine Department, Director of Engineering and Architectural Works, and Director of Transports. The duties of each member of the Board, as recently rearranged, are as follows: The First Lord has supreme authority over everything, and all questions of grave importance are referred to him for his immediate decision. He also is the dispenser of all patronage. The Senior Naval Lord directs the movements of the fleet, and is responsible for its discipline. The Junior Naval Lord deals with the victualling of the fleets, and with the transport department. The Civil Lord is answerable for the accounts. The Financial Secretary makes all purchases of stores, and is, what his

name implies, the authority for all matters connected with finance.

Admiralty, Court of. The High Court of Admiralty was first of all created by Edward III., and was the court in which the Lord High Admiral exercised his judicial functions. It has, however, now for a long time been presided over by a single judge. It has jurisdiction to try and determine all maritime causes or injuries on the high seas. Generally speaking, and with the exception of any case otherwise specially provided for by Act of Parliament, all Admiralty causes must be causes arising *wholly* upon the sea. Thus, though pure maritime acquisitions, which are earned and become due upon the high seas—as seamen's wages—are one proper object of admiralty jurisdiction, yet in general if there be a contract made in England to be executed upon the seas—as a charter-party that a ship shall sail to such and such a place, or be in such a latitude on a certain day—or a contract made upon the sea to be performed in England, these kind of causes belong not to the Admiralty jurisdiction, but to the courts of common law. In addition to this general jurisdiction over maritime causes, the judge of the Admiralty has a special jurisdiction from the Crown to adjudicate on *prise of war*; and, moreover, has to decide on *booty of war* (*i.e.*, prise on shore) when specially referred to him by Her Majesty.

The proceedings of the Court of Admiralty bear much resemblance to those of the civil law, but are not entirely founded thereon. The court likewise adopts and makes use of other laws as occasion requires—such as the Rhodian laws and the laws of Oberon. The first process in this court is frequently by arrest of the defendant's person, or by seizure of the defendant's ship; it also takes recognizances or stipulation of certain *fidejussors* in the nature of bail. Besides the High Court of Admiralty, there are also sundry courts of Vice-Admiralty, with limited jurisdiction, established in various parts of the realm.

Various provisions relating to the courts of Admiralty were introduced by 3 & 4 Vic. c. 65. Among these may be noticed the following:—1. That the Dean of Arches may be assistant to and be competent to sit for the judge of the High Court of Admiralty. 2. That, whenever any ship shall be arrested under process issuing from the High Court of Admiralty, the court shall have jurisdiction to take cognizance of all claims and causes of action of any person in respect of any mortgage of such ship and to decide any suit instituted by any such person. 3. That in all suits, the court may summon witnesses before it

and examine them by word of mouth. 4. That the judge may subpœna witness, or by subpœna *duces tecum* compel the production of documents. 5. That the court may direct the issues of fact in any cause to be tried by a jury. 6. That no action shall lie against any such judge for error in judgment. 7. That the keeper of any common gaol shall be bound to receive and take into his custody all persons who shall be committed thereunto by the Court of Admiralty, or by any coroner of the Admiralty. 8. That the judge shall have power to discharge any person in custody for contempt of the said court for any cause, other than the non-payment of money. •

By 2 & 3 Will. IV. c. 92, an appeal lies from the Court of Admiralty to the Queen in council, and by recent statutes the Privy Council may refer all such disputes to the judicial committee.

The High Court of Admiralty also had at one time an extensive criminal jurisdiction over crimes committed on the high seas. This is, however, now vested in the Central Criminal Court, of which the judge of the Court of Admiralty is always named as a commissioner. In practice, however, he never sits there.

By 31 & 32 Vic. c. 71, and 32 & 33 Vic. c. 51, Admiralty jurisdiction is conferred upon the county courts in cases where the amount in dispute is not above the sums mentioned in the acts.

Admission is when a bishop admits to a benefice that has been duly presented by the patron. The expression also applies to the enrolment of a solicitor, and is used in some other contingencies.

Admissions are facts agreed to by both parties in an action.

Adulteration is provided against by the Sale of Food and Drugs Act, 1875, c. 63, which imposes penalties for selling any food or drug so adulterated as to diminish its ostensible value, and heavier penalties where the adulteration is calculated to be injurious to health. Abstracting any of the elements of food or drug so as to diminish value is also punishable. Public analysts are provided for, and it is their duty to procure samples and to analyze for any one on payment of a fee of ten shillings. Refusing to sell to an officer of health involves a penalty. Proof that the seller bought the article in the same state as he sold it exonerates such seller. When any article of superior value is mixed with a similar article of inferior value it must be regarded as adulterated unless the mixture be described on a label affixed. Adulterations and frauds with reference to seeds are

punishable under the Adulteration of Seeds Acts, 1869, c. 112, and 1878, c. 17.

Advancement is any pecuniary advantage given to one person of a family as distinguished from the rest. In case of the advancer dying intestate the advancement is reckoned as part of the estate, and goes against the share of the person advanced.

Adverse Possession is when an estate is held by one person and claimed by another.

Advocate. In the English Ecclesiastical and Maritime Courts, until recently, certain persons learned in the civil and canon law, called advocates, had the exclusive right of practising as counsel. They were members of a college situate at Doctors' Commons. The chief jurisdiction of the Ecclesiastical Courts—that in testamentary and matrimonial causes—having by the Act of 1857 been transferred to the Court for Probate and Divorce, these new courts and the Admiralty and Ecclesiastical courts have been thrown open to the bar, and the college of Doctors of Law, &c., at Doctors' Commons has been dissolved.

Advocate, Lord, the principal Crown lawyer in Scotland, and one of the great officers of state of Scotland. It is his duty to act as public prosecutor; but private individuals injured may prosecute on obtaining his concurrence. He is assisted by a solicitor-general and four junior-counsel, termed advocates-depute. He has the power of appearing as public prosecutor in any court in Scotland where any person can be tried for an offence, or in any action where the Crown is interested; but it is not usual for him to act in the inferior courts, which have their respective public prosecutors, called procurators-fiscal, acting under his instructions. He does not, in prosecuting for offences, require the intervention of a grand jury, except in prosecutions for treason, which are conducted according to the English method. The Lord Advocate is virtually Secretary of State for Scotland.

Advowson. An advowson (*advocatio*) is the right of presentation to a church or ecclesiastical benefice. He who has the right of advowson is called the *patron* of the church. The origin of advowsons is this: when lords of manors first built churches on their own demesnes, and appointed the tithes of those manors to be paid to the officiating ministers, which before were paid to the clergy in common—from whence arose the division of parishes—the lord, who thus built the church and endowed it with glebe or land, had of common right the power of nomina-

ting such ministers as he chose (provided he were canonically qualified) to officiate in that church of which he was the founder. This power is now, by derivation of tithe from the lords of manors, rested in many private persons and in many corporations, both lay and spiritual. But an alien or papist cannot exercise the right of presentation; for, if the former purchase an advowson, the Crown may present, and if the latter, the right goes to the Universities of Cambridge and Oxford. Moreover, if a person professing the Jewish religion holds any office in the gift of the Crown, to which the right of presentation to any benefice belongs, such right devolves upon the archbishop of Canterbury for the time being. Advowsons are either *appendant* or *in gross*—*appendant*, if they have never been severed from the lordship of the manor by whose lord the church was once founded; in *gross*, if they have ever been severed. An advowson may be conveyed by deed. Moreover, not only the advowson itself, but the next or any number of future presentations may, during an existing incumbency, be conveyed in like manner by the owner, and the grantee of such next presentation becomes the patron *pro hac vice*. The exercise of his right, by a patron of either description, is subject to the restrictions imposed by the law of lapse, and by the law of simony. The presentation is said to lapse unless the patron presents within six calendar months after the living has become vacant—a lapse being a species of forfeiture, whereby the right of presentation accrues to the bishop, by neglect of the patron to present; to the archbishop of the province by neglect of the bishop, and to the Crown by neglect of the archbishop. (See also “Simony.”)

Advowtry is another name for adultery.

Affidavit is a document sworn to before some person authorized to administer oaths. It has all the effect of an oath in court, and carries with it the penalties of perjury if false.

Affiliation is the process resorted to for judicially determining who is the father of an illegitimate child, and for fixing upon such father the obligation of contributing to the maintenance of such child. The mother must apply to Petty Sessions or to a stipendiary magistrate either during pregnancy or within twelve months after the birth. The magistrates are authorized to enforce upon the father such payments as they think fit, for incidental expenses of birth, maintenance and education, not exceeding five shillings per week until the child is thirteen years of age and no longer, or until the earlier death of the child, together with the expense of the funeral.

Affirmations. Formerly it was considered necessary in all cases that an oath, that is a direct appeal to a Divine Power, should be made by a witness. Many conscientious persons have objected to this, and various sects have been established, part of whose religious creed it is that it is wrong to take an oath. In order to prevent the difficulty which arose from a large portion of the community being thus rendered unavailable as witnesses, various statutes have from time to time been passed, exempting such persons from the necessity of taking an oath and allowing them to make a solemn affirmation in its stead. Thus 9 Geo. IV. c. 32 gave liberty to every Quaker or Moravian, on declaring himself to be such, to "solemnly, sincerely, and truly declare and affirm" instead of swearing, and made such solemn affirmation and declaration of the same force and effect as an oath. The statute 3 & 4 Will. IV. gave the same liberty to Separatists. The Act 24 & 25 Vic. c. 66 enabled any person called as a witness in any criminal court in England or Ireland, refusing or being unwilling from conscientious motives to take an oath, to make a solemn affirmation and declaration instead. By 28 & 29 Vic. c. 9, these provisions were extended to Scotland, and made applicable to civil as well as criminal cases. Finally in 1869, by 22 & 33 Vic. c. 68, sec. 4, it was provided that any person called to give evidence in any court of justice, whether in a civil or criminal proceeding, who shall object to take an oath or shall be incompetent to take an oath, shall, if satisfied that the taking of an oath would have no binding effect on his conscience, make the following promise and declaration: "I solemnly promise and declare that the evidence given by me to the court shall be the truth, the whole truth, and nothing but the truth." Any person giving false evidence on a statutory affirmation is guilty of perjury, just as much as if the false evidence had been given on oath.

A fortiori is an argument based upon an admitted fact, from which another fact may be deduced.

Agent. Every person who employs, or instructs, or permits a person to do business for him, constitutes such person his agent, and is in law the principal of such agent, and liable for all the acts of such agent performed in the lawful discharge of the agency expressed or implied. A solicitor is his client's agent, so far as his instructions go, but no further. In other connections, any agent may be limited in his power as between himself and his principal, and if he exceeds the limit assigned to him such agent is liable to dismissal without notice or

remuneration ; but, between the principal and any person with whom the agent may do business, the limitation of the agency will not generally limit the responsibility of the principal. In all cases, however, the agency is limited to the class of business to be implied from the circumstances ; thus, brokers, land-agents, auctioneers, and others of a similar character, are the agents of their employers only in reference to the business they are expressly instructed upon. Commercial travellers necessarily exercise the office of agency in a remarkable degree ; when in receipt of fixed salaries, and ostensibly devoting their whole time to the service of their employers, are to all intents and purposes servants, and though solely on commission when holding an exclusive and fixed engagement, are precisely in the position of servants ; but travellers and others whose interest is merely on commission, with an implied right to conduct business at their own discretion, are not servants. Otherwise, all servants are the agents of their employers, who can exercise all rights through their servants and are equally responsible for their acts. Thus, if a workman spills a hod of mortar or bricks upon a person who is entitled to be where the hod is spilt, such person can recover from the employer for the loss or injury occasioned, though the servant may have been expressly cautioned or forbidden to the contrary. If a shopman sells at half-price in error, the customer is entitled to his bargain unless he knew of the error and fraudulently availed himself of it. If a commercial traveller books an order, his employer is bound to supply the goods, and the person who gives the order is bound to accept them and pay for them. A domestic servant who makes purchases upon credit in the name of her employer, thereby commits the employer so long as the goods are consistent with such household requirements as may be reasonably come within the office of a domestic servant, whether the employer has expressly authorized the servant or not ; but if the servant orders goods in the way of trade when only known to be a domestic, the employer acquires no right and incurs no responsibility unless express authority has been given.

Revocation of Agency is an important power that every employer and principal possesses in an unqualified degree, so that any agent can be deprived of his authority at a moment's notice with or without reason. If a principal hands over to his agent a sum of money wherewith to make a purchase he may, any time before the money is expended, revoke the authority and require the money to be returned to him ; and if a principal delivers property

to an agent for sale, he can, any time before the sale actually takes place, require such property to be restored to him. Should an agent, having property of his principal duly in possession for sale, be notified by such principal that the sale is not to proceed, such agent has no legal right afterwards to sell any portion of the property to pay himself any fees or charges he may claim; if he does so sell he is liable to exemplary damages. Death of either principal or agent instantly ends the agency as regards all parties, and if one partner of a firm dies, all contracts with agents of the firm are instantly ended, subject to renewal by the survivors.

Duties of Agents. An agent cannot legally buy property of his principal entrusted to the agent for sale unless the principal expressly assents, and in any case the agent is not entitled to commission upon his own purchase. In like manner an agent who is employed to buy cannot legally sell his own property to his principal without the principal's express consent, barring commission. A person cannot be agent for both seller and purchaser in any transaction; should he affect to conduct such business he is barred his commission. The tendency of legal decisions in such contingencies is to decide against the agent. Every agent is presumed to have reasonable capacity for the agency he undertakes, and to exercise such capacity in obedience to orders, with care and diligence, and in the *bona fide* interest of his principal. An agent, as between himself and his principal, is bound not to exceed the duties of his office; if he is instructed only to buy he must not sell, and if only to sell he must not buy; he must not stipulate for credit unless authorized to do so, either expressly or by some very clear custom.

Remuneration of Agents. Under express engagement an agent is entitled, in addition to bare salary or commission, to expenses necessarily incurred as a result of the instructions received by him, unless he expressly undertakes to pay such expenses himself. This does not apply to persons who make agency a specific business; in their case the presumption is the other way; they are only entitled to their bare commission unless they expressly stipulate for expenses. If an agent fails in executing his commission by reason of his own default, in respect of the responsibilities and duties imposed upon him as before stated, or by reason of misappropriation of money, or in not rendering accounts, he is not entitled to either salary, commission, or expenses, for "if he cannot charge for his labour he cannot charge for his money."

Sub-agency. An under-servant of any class, though engaged by and acting under another servant, is the agent and not the sub-agent of the employer; but B, an agent of A, is only an agent and not a servant. If B appoints C under his instructions to transact or complete business for the chief agent's principal the sub-agency does not necessarily bind A, who is not liable for C, for whom B is solely responsible, because an agent, unless expressly authorized, has no power to delegate his authority.

Pretended Agents. If a tradesman does business with a traveller merely on the faith of such traveller's personal representation that he is the agent of a certain firm, when he is not authorized at all by such firm, the firm is not bound, and the traveller is liable to criminal proceedings.

Discharged Agents. If a traveller has represented a firm for a time, and has become generally known as such firm's traveller, and the firm discharges him, and he still assumes to do business with tradesmen in the name of the firm; though he is liable to criminal proceedings, the firm is bound and responsible to such tradesman, unless it can be proved that he has received notice, or is otherwise informed of the traveller's discharge.

Liabilities and Rights of Principals. In addition to the general liabilities and rights of principals in respect of agents, there are numerous details worthy of notice. Every man is liable to strangers for the acts and defaults of his agents as fully as if the acts or defaults were his own. Strangers are responsible to principals in respect of transactions with agents, as fully as if the transactions were conducted personally by the principals.

Buying by Agents. The buyer of a firm can only bind the firm in respect of purchases strictly in the way of the firm's trade. The buyer of a carpet house can bind his firm for carpets to almost any amount, however reckless and ill-judged, his purchase may be, unless it can be proved that the sellers acted collusively or improperly; but he cannot bind his firm to the purchase of so much as a shilling's worth of tea, timber, or any other merchandise except carpets.

Departments. Where a house of business is divided into departments, the accredited buyer of one department cannot bind the firm in respect of any other department; but if he be formally authorized to buy in only one department, and is permitted to buy in other departments, the firm is liable in the absence of a distinct stipulation to the contrary communicated

to the seller before the sale; therefore it is unwise to allow the least departure from well-defined routine in these respects.

Petty Orders. If a firm permit a working lad or illiterate man to sign and issue petty orders for goods, and the practice is repeated and systematically acted upon, the firm is bound by such orders, whether *bonâ fide* or not, until the parties who have systematically honoured them are notified or informed to the contrary; but if a tradesman receives a large order from an agent who is only impliedly authorized to issue petty orders, it is likely that the petty agent's liability may be successfully repudiated.

Agricultural Holdings Act, 1883. See "Landlord and Tenant."

Alibi is the assertion that a person could not have committed an alleged offence because he was in another place at the time of the offence; proving an alibi, if the proof be accepted, is the best of all defences.

Alimony is the amount of contribution enforced from a husband for the support of his wife. In cases where a wife brought to her husband an unsettled fortune under the old law, and he failed to make adequate provision for her, she was entitled to an arrangement to ensure her alimony, but that is now for the most part obsolete. Alimony now usually applies to the right of a wife who has procured a judicial separation or divorce, to contributions for her maintenance, concerning which the Divorce Court can compel the husband. There is no rule as to the amount, which depends upon the rank of the parties and the discretion of the judge.

Alkali Works are subject to the special legislation of 26 & 27 Vic. c. 124; 31 & 32 Vic. c. 36; and 37 & 38 Vic. c. 43. Commencing an alkali work without registering the same subjects the proprietor to penalties of £5 per day. The works must be conducted so as to minimize the mischief of the muriatic acid created by the processes, and this is extended by the later Acts to the use of sulphuric acid, nitric acid, oxides of nitrogen, sulphuretted hydrogen, chlorine, or any other noxious gas. Every alkali work is therefore liable to inspection and supervision by an official inspector, with very extensive powers, and the arrangements and processes must be to the satisfaction of such inspector, whose duty it is to see that the law is enforced in every particular. An alkali work is defined as "every work for the manufacture of alkali, sulphate of soda, or sulphate of potash in which muriatic acid gas is evolved," and "the

formation of any sulphate in the treatment of copper ores by common salt or other chlorides shall be deemed to be a manufacture of sulphate of soda."

Allegation is a statement which the person putting it forward undertakes to prove.

Allegiance. The duty of the subject towards the sovereign in this country is summed up in the one word—allegiance. Under the feudal system, there was a mutual trust and confidence between the lord and his vassal, that the lord should protect the vassal in the enjoyment of the territory he had granted him, and, on the other hand, that the vassal should be faithful to his lord and defend him against all his enemies. This obligation on the part of the tenant was called fealty, and an oath of fealty was required by the feudal law to be taken by all tenants to their landlord, which is couched in almost the same terms as our ancient oath of allegiance, except that in the usual oath of fealty there was frequently a saving or exception of the faith due to a superior lord by name, under whom the landlord himself was perhaps only a tenant or vassal. But when the acknowledgment was made to the sovereign, who was vassal to no man, it was no longer called the oath of fealty, but the oath of allegiance, and then the tenant swore to bear faith to his sovereign lord in opposition to all men, without any saving or exception—" *contra omnes homines, fidelitatem fecit.*" Land held by this exalted species of fealty was termed *feudum ligium*, a liege fee; the vassals, *homines ligii*, or liegemen, and the sovereign the *dominus ligius*, or liege lord. In England—it having always been a settled principle of tenure that all lands in the kingdom are held of the king as sovereign or lord paramount—no oath but that of fealty could ever be taken to inferior lords, and the oath of allegiance was necessarily confined to the king alone. By an easy analogy, the term allegiance was soon brought to signify all other engagements which are due from subjects to their prince, as well as those duties which were simply and merely territorial. The oath of allegiance, as administered for upwards of 600 years, contained a promise "to be true and faithful to the king and his heirs, and truth and faith to bear of life and limb and terrene honour; and not to know or hear of any ill or damage intended him, without defending him thereon." At the Revolution this oath was altered, the only promise being to "be faithful and bear true allegiance" to the sovereign, without mentioning his heirs, or specifying wherein that allegiance consisted. By Acts of the

reign of William III. the oaths of *supremacy* and *abjuration* were prescribed, and these continued to be taken together with the oath of allegiance until 1838, when a new oath was constituted combining these three oaths. In 1866, by the Parliamentary Oaths Act of that year (29 Vic. c. 19), a new oath was prescribed for members of either House of Parliament as follows:—"I, A. B., do swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria; and I do faithfully promise to maintain and support the succession to the Crown as the same stands limited and settled by virtue of an Act passed in the reign of King William III., intituled 'An Act for the further limitation of the Crown and better securing the rights and liberties of the subject,' and of the subsequent Acts of Union with Scotland and Ireland. So help me God." In the case of a Quaker, or other person permitted by law to make an affirmation instead of an oath, an affirmation (*mutatis mutandis*) may be made. By "The Promissory Oaths Act, 1868," a number of other oaths are given to be used under various circumstances. (See title "Oath.")

It may be here observed that the Jews have been formerly excluded from sitting in Parliament, by their inability to take the oath of allegiance "upon the true faith of a Christian;" but by 21 & 22 Vic. c. 49 (amended by 28 & 24 Vic. c. 63) either House might resolve that every person professing the Jewish faith might, in taking the oath required by law to enable him to sit in that house, omit the words which here tend to his exclusion. A resolution was accordingly passed to that effect in the House of Commons, and since that time several Jews have sat in the house, and such resolution is needless since 29 Vic.

But, besides this express engagement, the law also holds that there is an implied, original, and virtual allegiance owing from every subject of the realm to the sovereign, antecedently to, and independently of, such promise. The oath does not increase the civil obligation to loyalty; it only strengthens the social tie connecting it with religion.

Allegiance, both express and implied, is, however, distinguished into two sorts, the one natural, the other local; the former being also perpetual, the other temporary. Natural allegiance is such as is due from natural-born subjects. (Vid. sup. title "Subject, Natural-born") This is a tie which until recently could not be dissolved. But now by sec. 6 of 38 Vic. c. 14, an British subject who, being in a foreign state, voluntarily becomes naturalized in such state, shall from and after the time of his

having so become naturalized in such foreign state, be deemed to have ceased to be a British subject, and to be an alien. Such person may subsequently be re-admitted, at the discretion of the Secretary of State, to British nationality, just in the same manner as if he were an alien by birth.

Local allegiance is such as is due from an alien, or stranger born, for so long a time as he continues within the king's dominions and protection, and it ceases the instant such stranger transfers himself from this kingdom to another.

By a statute of Henry VII., no person can be convicted of treason for having borne allegiance to the king *de facto*, however defective his title may come to be considered when another claimant gains possession of the throne.

Alluvion is land recovered from the sea, either by the retirement of the sea or by artificial means.

Ambassador. It is one of the prerogatives of the sovereign, that he has the sole power of sending ambassadors to foreign states and of receiving ambassadors at home. An ambassador is considered as independent of every power except that by which he is sent, and therefore is not subject to the mere municipal laws of the realm. If he grossly offends, or makes ill use of his character, he may be sent home and accused before his master. As to the liabilities of an ambassador or one of his train to be arrested on civil process, that is a question that has rarely arisen. In the reign of Anne, however, the Russian ambassador was arrested and taken out of his coach in London, for a debt of fifty pounds which he had there contracted. Instead of applying to be discharged upon his privilege, he gave bail to the action and the next day complained to the queen. The persons who were concerned in the arrest were examined before the Privy Council, and seventeen were committed to prison, most of whom were prosecuted by information in the Court of Queen's Bench; and on their being convicted of the facts by the jury, the question of law was reserved, how far those facts were criminal. The question, however, was never determined. In order, however, to prevent such an outrage for the future, an act (7 Anne, c. 12) was passed, which provided that "for the future all writs and process whereby the person of any ambassador, or of his domestic servants, may be arrested, or his goods distrained or seized, shall be utterly null and void; and the persons prosecuting, soliciting, or executing such process, shall be deemed violators of the law of nations and disturbers of the public repose, and shall suffer such penalties and

corporal punishment as the Lord Chancellor and the two chief justices, or any two of them, shall think fit." But it was expressly provided that no trader, within the meaning of the Bankrupt laws, should be privileged or protected by the Act, and that no one should be punished for arresting an ambassador's servant unless his name should be registered with the Secretary of State, and by him transmitted to the sheriffs of London and Middlesex.

Amercement. A punishment whereby a man was thrown upon the king's mercy. It was provided by Magna Charta that "no free man shall be amerced for a small crime, but only according to the measure of the crime itself; and for a great crime according to the magnitude thereof, saving to him his contenement; and a merchant in like manner, saving his merchandise; and a villein shall be amerced in the same manner, saving to him his implement of husbandry." This only means that no man shall have a larger amercement imposed upon him than his circumstances or estate will bear. In order to ascertain this, the great charter also directs that the amercement, which is always inflicted in general terms (*sit in misericordia*), shall be set (*ponatur*), or reduced to a certainty, by the oath of good and lawful men of the neighbourhood.

Ancient Demesne is a tenure existing in certain manors which, though now perhaps in the hands of private individuals, were actually in the hands of the Crown in the time of Edward the Confessor or William the Conqueror, and so appears to have been in Domesday book. The tenants in these manors of the Crown were not all of the same order or degree. Some of them continued for a long time pure and absolute villeins dependent on the will of the lord and those who have succeeded them in their tenure now differ from common copyholders only in a few points. Others were in great measure enfranchised by the royal favour, being only bound in respect of their land to perform some of the better sort of villein services, and these determinate and certain—as to plough the king's land for so many days, to supply his court with such a quantity of provisions, or other stated services, all of which are now changed into pecuniary rents. In consideration of this they had certain privileges and immunities granted to them—as to try the right to their property in a peculiar court of their own, called a court of ancient demesne, and by a peculiar process denominated a writ of right close; not to pay toll or taxes; not to contribute

to the expenses of knights of the shire; not to be put on juries, and the like. Manors of ancient demesne, accordingly, comprise to this day both copyholders in the proper and common sense of the word, and also such privileged tenants as are above described, who are alone properly called tenants in ancient demesne. These latter could not, as the pure villeins originally could, be compelled to relinquish their tenements at the will of the lord. Like common copyholders, however, they require admittance to perfect their title; and they hold according to the custom of the manor, though not, like copyholders, at the will of the lord.

Ancient Lights. Windows are so called when they have remained unaltered and unobstructed for more than twenty years.

Ancient Writings. Legal documents are so called when they are of more than thirty years' standing. They are generally considered indisputable.

Animals. Cruelty to animals is dealt with by 12 & 13 Vic. c. 92; during impounding, 17 & 18 Vic. c. 60; administering poisonous drugs, 39 Vic. c. 13; generally, 39 & 40 Vic. c. 77. The contagious and infectious diseases of animals are provided against by 41 & 42 Vic. c. 74, which gives extraordinary powers to the Privy Council to interfere and enforce regulations against infection. The Act has especial reference to Pleuropneumonia and Foot and Mouth Disease. Powers are given for compulsory slaughter of diseased and infected animals, and for compensation to owners. Every person possessed of an animal suffering from any disease enumerated is required to give notice to the police or inspector, with penalties for omitting to do so. Dairies, cow-sheds, and milk-shops come under the provisions of the Act, and their owners are liable for neglect of the requirements. An important part of the Act is the supervision of imports of cattle, with great powers of prohibition and slaughter. Local authorities everywhere are charged with considerable responsibilities on the subject, and are required to make reports accordingly.

Annulment of Bankruptcy stays all further proceedings, but leaves untouched what has already been done.

Answer is the name given to a defence either in Chancery or the Divorce Court.

Apparent Heir. It is a maxim of law that *nemo est heres viventis*—no one is heir of another till he is dead. Before that time, the person who is the next in the line of succession is called the heir *apparent* or heir *presumptive*, as the case may be. Heirs

apparent are such whose right of inheritance is indefeasible, provided they outlive the ancestor ; as the eldest son, who must by the course of the common law be heir to the father whenever he happens to die. Heirs presumptive are such who, if the ancestor were to happen to die immediately, would in the present state of things be his heir, but whose right of inheritance may be defeated by the contingency of some nearer heir being born, as a brother or nephew of a childless man, whose presumptive succession may be defeated by the birth of a child.

Appeal, in a modern sense, is the process by which the decision of an inferior court is brought under the review of a superior court.

The word in another sense denotes an antiquated process, in the nature of an original suit, by which a private subject (a criminal prosecution being always undertaken in the name of the Crown) accused another of some heinous crime, demanding punishment on account of the particular injury suffered, rather than for the offence against the public. It probably had its origin in those times when a private pecuniary satisfaction (*vid. title "Weregild"*) was payable to a party injured, or his relations, to expiate enormous offences. As, therefore, during the continuance of this custom, a process was certainly given for recovering the weregild by the party to whom it was due ; it seems that when these offences by degrees grew no longer redemptible, the private process was still continued, in order to insure the infliction of punishment on the offender, though the party injured was allowed no pecuniary compensation for the offence. But though appeals were thus in the nature of prosecutions for some atrocious injury committed more immediately against an individual, yet any subject might appeal another of high treason.

If the appellee were acquitted on the appeal, he could not afterwards be indicted for the same offence ; but if, being indicted, he were acquitted, or after being found guilty were pardoned by the king, he might still be appealed. If the appellee were acquitted, the appellor (by virtue of 18 Edw. I. c. 12) was liable to suffer one year's imprisonment and pay a fine to the king, besides restitution of damages to the party for the imprisonment and infamy he had sustained ; and if the appellor were incapable of such restitution, his abettors were liable to make it for him, and also liable to imprisonment. This provision greatly discouraged appeals ; so that thenceforward they ceased to be in common use. If the appellee were found guilty, he was liable to the same judgment as if he had been

convicted on an indictment; but with this remarkable difference, that, on an indictment, which is at the suit of the king, the king might pardon and remit the execution; on an appeal, which was at the suit of a private subject, the king could no more pardon than he could remit the damages recovered in an action of battery.

This method of prosecution had long fallen into disuse before it was finally abolished by 59 Geo. III. c. 46.

Appearance is the notice of a defendant in an action that he intends to appear and defend, either in person or through an attorney.

Appellate Jurisdiction is any jurisdiction to which there is an appeal from a "court below."

Apprentice. Apprentices (from *apprendre*, to learn) are a species of servants, and are usually bound for a term of years, by indentures, to serve their masters; their masters being bound by the same indenture to maintain and instruct them. This binding is usually to persons in trade, in order that the apprentice may be instructed in such trade. By a provision of 5 Eliz. c. 4, which remained in force till a recent period, it was in general required that every person exercising a trade in England should have previously served as apprentice to it for seven years. But by 54 Geo. III. c. 96, that provision was abolished, with a saving of the customs and by-laws of the city of London and other corporations; and by the 5 & 6 Will. IV. c. 76 (which, however, does not apply to the city of London), all such customs and by-laws as had the effect of prohibiting any trade to persons who had not served an apprenticeship to it, were done away with. Apprentices in general are bound out by their friends, though their own consent (testified by their becoming parties to the indenture) is essential to the validity of the transaction. But there is a class called *parish apprentices*, who are bound out by the guardians or overseers of the poor under different circumstances. For the children of parents unable to maintain them may be so apprenticed till the age of twenty-one, without their own consent or becoming parties to the indenture, to such persons as are thought fitting; and these persons were formerly compellable to take them. But by 7 & 8 Vic. c. 101, sec. 13, the reception of any poor child as an apprentice is no longer compulsory. A variety of statutes regulate the manner in which parish apprentices are to be bound, assigned, registered, and maintained; a subject which is, besides, now placed under the paramount direction of the Poor

Law Board, who have power to introduce new rules from time to time as they may think fit. And there are also numerous enactments by which justices of the peace are empowered to settle disputes between apprentices (whether bound by the parish or not) and their masters, and to discharge apprentices from their indentures upon reasonable cause being shown.

Apprentices to Fishermen. By the Merchant Shipping (Fishing Boats) Act, 1883, new provisions were introduced with reference to boys and apprentices in sea fisheries. All indentures and all agreements with boys under sixteen must be entered into before a superintendent of a mercantile marine office, who, in the absence of responsible known relatives, must act as guardian to the boy. All indentures must be in triplicate; one each for the master, boy, and superintendent. All indentures must be in the form prescribed by the Act, which form includes numerous special covenants. Boys under thirteen cannot be engaged by agreement or apprenticeship. A boy must not be taken to sea who is not under an agreement or indenture. Superintendents of mercantile marine are authorized and required to enforce agreements or indentures, and must supply forms when required. All agreements and indentures are exempt from stamp duty. Shipping masters are to assist with indentures. Guardians and overseers of poor may apprentice boys subject to foregoing conditions. There are provisions for punishing apprentices for desertion or other misconduct, and for inquiries and proceedings in case of death, personal injury, or breach of covenant.

Approvement is the enclosure of common land by any person claiming the right of doing so; and such person is the approver. The income arising out of such an inclosure is also called the approvement.

Approver is one who encloses common lands, whether rightfully or not. The term is also applied to a criminal who confesses his crime and accuses others of complicity with him in the crime, whereby, as is the phrase, he turns Queen's evidence; and is usually pardoned for doing so.

Appurtenance is some advantage or right arising out of property.

Arbitration is the submission of the parties in a dispute to the decision of an arbitrator or arbitrators, with or without an umpire. When an arbitrator is appointed by a judge the parties are bound to submit, whether they are willing or not; but when both parties are willing to submit, and execute a memo-

random accordingly, neither of the parties can withdraw without the consent of the other. Both are bound to abide by the decision of the arbitrator. It is necessary in such cases to define very accurately what has to be decided, and such definition is called the reference, to which the arbitrator must strictly limit himself. He must also distinctly make an award for one side or the other; any qualification by him of the terms of the reference on the obligations of the party decided against vitiates the award.

Archbishop. (As to the manner of making an archbishop, see sub-title "Bishop.") There are two archbishops for England and Wales: the archbishop of Canterbury, who is primate of England, and who has within his province all the bishoprics except those of Chester, Durham, Carlisle, Ripon, Manchester, and that of Sodor and Man; and the archbishop of York, whose province comprises the six bishoprics just named. An archbishop is the chief of the clergy in his province; and has the inspection of the bishops of that province as well as of the inferior clergy; or, as the law expresses it, the power to visit them. He confirms the election of the bishops, and afterwards consecrates them. As archbishop, he, upon receipt of the king's writ, calls the bishops and clergy of his province to meet him in convocation (vid. title "Convocation"), but without the king's writ he cannot assemble them. To him, as the superior ecclesiastical judge, all appeals are made from inferior jurisdictions in his province. And as an appeal lies from the bishops in person to him in person, so it also lies from the Consistory courts (vid. title "Consistory Court") of each diocese to the Archiepiscopal court. In addition to this, the archbishop of Canterbury has also a court of original jurisdiction over thirteen parishes in London, which is held for him by his official, called the Dean of the Arches. (Vid. title "Arches, Court of.") During the vacancy of any see in his province the archbishop is guardian of the spiritualities thereof, as the king is of the temporalities, and he executes all ecclesiastical jurisdiction therein. If the archiepiscopal see be vacant, the dean and chapter are the spiritual guardians. The archbishop is entitled to present by lapse to all the ecclesiastical livings in the gift of his diocesan bishops, if not filled within six months. The archbishop has the customary prerogative, when a bishop is consecrated by him, to make a clerk a chaplain of his own, to be provided for by such suffragan bishop; in lieu of which it is now usual for the bishop to make over to the archbishop, his executors and

assigns, the next presentation of such dignity or benefice within his diocese as the archbishop shall choose. This is called the archbishop's *option* : but such an option is binding only on the bishop himself who grants it, and not on his successors. These options become the private patronage of the archbishop, and, upon his death, pass to his personal representatives. It is likewise the privilege, by custom, of the archbishop of Canterbury, to crown the kings and queens of this kingdom. He has also, by statute 25 Hen. VIII. c. 21, the power of granting dispensations in any case, not contrary to the Holy Scriptures and the law of God, where the pope used formerly to grant them. This is the foundation of his granting special licenses to marry at any place or time. An archbishopric, like a bishopric, may become void by death, deprivation for any very gross and notorious crime, and also by resignation. All resignations must be made to some superior. Therefore a bishop must resign to the archbishop to whose province his bishopric belongs ; but an archbishop can resign to none but the king himself.

The two archbishops have the right, in virtue of their respective sees, to sit as lords spiritual (having first received a summons for that purpose) in the House of Lords. (As to the right of the archbishops to sit in the House of Lords, see tit. "Parliament.") In point of precedence, the archbishop of Canterbury ranks next after the king's nephews ; the lord chancellor, if a baron, takes the next place, and immediately after him comes the archbishop of York. (As to the recent act for the resignation of bishops and archbishops, vid. sub-title "Bishop.")

Archdeacon. An archdeacon has an ecclesiastical jurisdiction, immediately subordinate to the bishop, throughout the whole of his diocese or in some particular part of it. He is usually appointed by the bishop himself, and has a kind of episcopal authority, originally derived from the bishop, but now independent and distinct from his. He therefore *visits* the clergy, and has a separate court for the punishment of offenders by spiritual censures, and for hearing all other causes of ecclesiastical cognizance. As a general rule (but subject to exception in the case of particular archdeacons) the jurisdiction of the archdeacon and bishop are concurrent, so that a suit may be commenced in the court of either. An archdeaconry may become void by death, resignation, or deprivation.

Archdeacon's Court. This is the most inferior of the ecclesiastical courts. It is held in each archdeaconry, before a judge appointed by the archdeacon himself and termed his

official. Its jurisdiction comprises ecclesiastical causes in general, arising within the archdeaconry; and, in ordinary cases, the party may commence his suit either in this court or in the bishop's; though in some archdeaconries the suit must be commenced in the former to the exclusion of the latter. From the archdeacon's court an appeal generally lies, by 24 Hen. VIII. c. 12, to that of the bishop. (Vid. sub-title "Ecclesiastical Courts.")

Arches, the Court of. A court of appeal belonging to the archbishop of Canterbury, whereof the judge (who sits as deputy to the archbishop) is called the Dean of the Arches. The court derives its name from its having been anciently held in the church of St. Mary-le-Bow. The proper jurisdiction of the dean is only over the thirteen peculiar parishes belonging to the archbishop in London; but the office of Dean of the Arches having been for a long time united with that of the archbishop's principal official, he now, in right of the last-mentioned office (as doth also the principal official of the archbishop of York), receives and determines appeals from the sentences of all inferior ecclesiastical courts within the province. Many suits, also, are brought before him as original judge, the cognizance of which properly belongs to inferior jurisdictions within the province, but in respect of which the inferior judge has waived his jurisdiction under a certain form of proceeding known in the canon law as *letters of request*. From the Court of Arches, and from the parallel court in the province of York, an appeal lies to the Judicial Committee of the Privy Council. (Vid. sub-title "Ecclesiastical Courts.")

Army. The military force which our ancient constitution had placed in the hands of its chief magistrate and those deriving authority from him, may be classed under two descriptions; one principally designed to maintain the king's and the nation's rights abroad, the other to protect them at home from attack or disturbance. The first comprehends the tenures by knight's service, which, according to the constant principles of a feudal monarchy, bound the owners of lands thus held of the Crown to attend the king in war, within or without the realm, mounted and armed, during the regular term of service. Their own vassals were obliged by the same law to accompany them. But the feudal service was limited to forty days, beyond which time they could be retained only by their own consent and at the king's expense. The military tenants were frequently called upon in expeditions against Scotland, and last of all in that of

1640 ; but the short duration of their legal service rendered it of course nearly useless in continental warfare. Even when they formed the battle or line of heavy-armed cavalry, it was necessary to complete the army by recruits of foot-soldiers, whom feudal tenure did not regularly supply, and whose importance was soon made sensible by their skill in our national weapon, the bow. What was the extent of the king's lawful prerogative for two centuries or more after the Conquest as to compelling any of his subjects to accompany him on a foreign war, independently of the obligations of tenure, is a question scarcely to be answered ; since, knowing so imperfectly the boundaries of constitutional law in that period, we have little to guide us but precedents ; and precedents, in such times, are much more records of power than of right. We find, certainly, several instances under Edward I. and Edward II., sometimes of proclamations to the sheriffs, directing them to notify to all persons of sufficient estate that they must hold themselves ready to attend the king whenever he should call on them ; sometimes of commissions to particular persons in different counties, who are enjoined to choose and array a competent number of horse and foot for the king's service. But these levies being of course vexatious to the people, and contrary at least to the spirit of those immunities which, under the shadow of the great charter, they were entitled to enjoy, Edward III., on the petition of his first parliament, passed a remarkable Act with the simple brevity of those times : "That no man henceforth should be charged to arm himself, otherwise than he was wont, in the time of his progenitors, the kings of England ; and that no man be compelled to go out of his shire, but when necessity requireth, and sudden coming of strange enemies into the realm ; and then it shall be done as it hath been used in times past for the defence of the realm." This statute put a stop for some ages to these arbitrary conscriptions. But Edward had recourse to another means of levying men without his own cost, by calling on the counties and principal towns to furnish a certain number of troops. Against this the parliament provided a remedy in the twenty-fifth year of his reign : "That no man shall be constrained to find men-at-arms, hobblers, nor archers, other than those who hold by such service, if it be not by common consent and grant in parliament." Both these statutes were recited and confirmed in the fourth year of Henry IV.

The successful resistance thus made by parliament appears to have produced the discontinuance of compulsory levies for

foreign warfare. Edward III. and his successors, in their long contentions with France, resorted to the mode of recruiting by contracts with men of high rank or military estimation, whose influence was greater probably than that of the Crown in procuring voluntary enlistments. The pay of the soldiers, which we find stipulated in such of these contracts as are still extant, was extremely high; but it secured the service of a brave and vigorous yeomanry. Under the House of Tudor, in conformity to their more despotic scheme of government, the salutary enactments of former times came to be disregarded, Henry VIII. and Elizabeth sometimes compelling the counties to furnish soldiers, and the prerogative of pressing men for military service, even out of the realm, having not only become as much established as undisputed usage could make it, but acquiring no slight degree of sanction by an Act passed under Philip and Mary, which, without repealing or adverting to the statutes of Edward III. and Henry IV., recognize, as it seems, the right of the Crown to levy men for service in war, and imposes penalties on persons absenting themselves from musters commanded by the king's authority to be held for that purpose.

It is scarcely perhaps necessary to observe that there had never been any regular army kept up in England. Henry VIII. established the yeomen of the guard in 1485, solely for the defence of his person, and rather perhaps even at that time to be regarded as the king's domestic servants than as soldiers. Their number was at first fifty, and seems never to have exceeded two hundred. A kind of regular troops, however, chiefly accustomed to the use of artillery, was maintained in the very few fortified places where it was thought necessary or practicable to keep up a show of defence; the Tower of London, Portsmouth and the Castle of Dover, the Fort of Tilbury, and, before the union of the crowns, Berwick and some other places on the Scottish border. Very little can be ascertained as to the nature of these garrisons. But their whole number must have been insignificant, and probably at no time capable of resisting any serious attack.

(This strictly military force must not be confounded with that of a more domestic and defensive character to which the name of militia has been generally applied. As to this, vid. subtitle "Militia.")

Matters continued pretty nearly in this state up to 1640, the year in which the hostilities between Charles I. and the Parliament finally broke out. At that period, to gain the command

of whatever military force the country possessed was the great object of both king and parliament, and it was one of the principal *immediate* causes of the final outbreak. Passing over the events of the great Rebellion, we find in 1660 that the regular army, that had been established by the parliamentary party and had been under the command of Cromwell and his officers, was virtually master of the situation, and threatened to annihilate the liberties of the country. After the Restoration, the House of Commons, in fixing the revenue of the Crown at £1,200,000, tacitly gave it to be understood that a regular military force was not among the necessities for which they meant to provide. They looked upon the army, notwithstanding its recent services, with great apprehension. They were still supporting it by monthly assessments of £70,000, and they could gain no relief by the king's restoration till that charge came to an end. A bill therefore was sent up to the Lords in September, 1660, providing money for disbanding the land forces. This was done during the recess ; the soldiers received their arrears with many fair words of praise, and the nation saw itself released from its heavy burden. Yet Charles II. had too much knowledge of foreign countries, where monarchy flourished in all the plenitude of sovereign power under the guardian sword of a standing army, to part readily with so favourite an instrument of kings. Some of his advisers, and particularly the Duke of York, dissuaded him from disbanding the army, or at least advised his supplying its place by another. Accordingly, as there seemed to be a plausible excuse for something more of a military protection to the government than the yeomen of the guard and the gentlemen pensioners, General Monk's regiment, called the Coldstream, and one other of horse, were retained by the king in his service ; another regiment was formed out of troops brought from Dunkirk ; and thus began, under the name of guards, the present regular army of Great Britain. In 1662 these amounted to about 5,000 men. In the thirteenth year of his reign, Charles II. succeeded in obtaining a statute, declaring that "the sole and supreme power, command and disposition of the militia and of all forces by sea and land, and of all forts and places of strength, is the undoubted right of His Majesty ; and both or either of the Houses of Parliament cannot nor ought to pretend to the same." As the Commons, however, have always had complete control over the public purse, parliament has practically been enabled to hold in its hands the power over the military forces of the country.

The army thus formed continued to increase in numbers during the reigns of Charles II. and James II., much to the discontent of the country party and to the alarm of all those who sought to prevent the Stuarts from carrying out their own ideas as to the absolute nature of the sovereign's power. At length, at the Revolution in 1688, it was declared by the Bill of Rights, that "the raising or keeping a standing army in time of peace, unless it be with the consent of parliament, is against law." From this period, moreover, the Mutiny Act has been continually passed from year to year—this Act constituting the only law by which any legal distinction is established between a soldier and a private individual.

By the constitution of this country, the sovereign is the supreme head and captain-general of the army. All acts and measures necessary for its regulation, direction, and employment are decided upon by the Queen in Council. It is the duty of the commander-in-chief (see that *title*) for the time being to direct the execution of such measures or acts, in all those operations which are executed within the United Kingdom, as well as to superintend the organization, instruction, and discipline of the troops belonging to the different branches of the service. A secretary of state is specially charged with the administration of the War Department in all its branches. He is the organ of communication between government and the army on the one hand, and between the army and the government on the other; and he acts as a check upon the commander-in-chief, while he is in turn restrained by his responsibility to parliament, to the country, and to the laws. The office of Secretary of State for the War Department was created in 1795. The business of the colonies was transferred to this office in 1801; but in 1854 a separate colonial minister was appointed. The Secretary at War is always a member of the Cabinet. (See "War, Secretary at.")

The departments exclusively military are those of the adjutant-general and quartermaster-general. The former officer is the director of the *personnel* of the British army. Everything relating to the effective or non-effective state of the troops; to formation, instruction, and discipline; to the direction and inspection of the clothing and accoutrements of the army; to recruitment, leaves of absence, or bounties to soldiers; to the employment of the officers of the staff and to returns relative to these different matters, required by Her Majesty, the ministry, the Secretary at War, or parliament, falls within the province of the adjutant-general and his subordinates. The quartermaster-

general holds the same rank as the adjutant-general. It is his duty to prescribe routes and marches, to regulate the embarkation and disembarkation of troops, to provide quarters for them, to mark out ground proper for encampment, to execute military surveys and to prepare plans and make dispositions for the defence of a territory. There are besides these two departments the barrack department; the commissariat; the medical department; the chaplain-general and a board of military education, constituted in 1857 to conduct the examination of candidates for commissions in the army.

Enlistment in the British army is now for a period not to exceed twelve years. (See title "Enlistment.") The enlistment is voluntary; but when a soldier has once enlisted he is liable under the Mutiny Act to severe punishment for desertion. (See title "Mutiny Act.") The component elements of the British army are the household troops; the infantry of the line; the ordnance corps, comprising artillery and engineers; and the marines. There are besides these the volunteers. (See title "Volunteers.")

Army Conveyance. By the Cheap Trains Act, 1883, new conditions are imposed upon railways with reference to the conveyance of officers and men of the army, navy, and volunteers. Including personal luggage, public baggage, stores, arms, ammunition, and other necessaries, the fares per head are to be for the single journey by ordinary trains in the respective classes, when less than 150 persons, three-fourths of the ordinary fares; when 150 or upwards, for the first 150 three-fourths, and for the remainder one-half the ordinary fares, including throughout wives and widows of members of the forces; children under three free, and under twelve half prices. First class passengers to carry free 1 cwt. of personal luggage, and other classes $\frac{1}{2}$ cwt. each. Stores to pay 2d. per ton per mile. Explosives on special terms by agreement.

Army Exchanges. These are governed by the Act 38 Vic. c. 16 (1875), which seems to have been passed for the express purpose of evading the warrant of the Crown of July 20, 1871, for suppressing the practice of purchasing appointments in the army. The Act does not directly permit purchase into the army, but authorizes the exchange of officers from one regiment to another, and expressly provides that "nothing contained in the Army Brokerage Acts shall extend to any exchanges made in manner authorized by any regulation of Her Majesty for the time being in force. The Army Brokerage Acts are two: the first, 5 and 6 Edward VI. c. 16, "An Act against Buying and

Selling of Offices ;" and 49 Geo. III. c. 126, "An Act for the Further Prevention of the Sale and Brokerage of Offices," so that the first-named Act of 1875, without actually mentioning it, restores purchase of places in the army under the colourable evasion called exchanges.

Arrest (from the French *arrester*, *arrêter*, to stop or stay) is the restraint of a man's person for the purpose of compelling him to be obedient to the law, and is defined to be the execution of the commands of some court of accord or officer of justice.

Arrests are either in civil or criminal cases.

I. *As to an arrest in civil cases.* The arrest must be by virtue of a precept or order out of some court, and must be effected by corporally seizing or touching the defendant's body, or as directed by the writ, *capias et attachias*, take and catch hold of. And if the defendant make his escape, it is a *rescus*, or rescue, and attachment may be had against him, and the bailiff may then justify the breaking open of the house in which he is, to carry him away. Formerly, arrests were allowed to be made by mesne process, before judgment obtained, but they were rendered illegal by 1 & 2 Vic. c. 110, though an order may still be obtained from a judge, on affidavit by the plaintiff, to arrest a defendant about to leave the country. Until recently, in case a judgment had been obtained for a sum exceeding £20, exclusive of costs, the judgment creditor might have the debtor arrested under a writ of *capias ad satisfaciendum*; and if the debtor did not then pay, he might be detained in prison till discharged under the Acts for the relief of insolvent debtors. This power has, however, by a recent Act been taken away. (See title "Debt, Imprisonment for.")

Certain persons have always been privileged from arrest for debt. 1st. Peers of the realm, members of parliament, not only when the house is sitting, but for such a period before the first meeting and after the dissolution of a parliament as may enable them conveniently to come from and return to any part of the kingdom, and also for forty days after every prorogation, and forty days before the next appointed meeting. 2nd. Peeresses by birth; Peers of Scotland; Peeresses by marriage; Irish Peers; members of Convocation actually attending therein. 3rd. Bishops; ambassadors or their domestic servants, really and *bonâ fide* acting in that capacity (7 Anne, c. 12); the Queen's servants, marshals, &c. 4th. Attorneys, witnesses subpœnaed, suitors and all other persons, while necessarily attending the courts of justice, or going to or from the same

(*eundo, morando, et redeundo*). 5th. Clergymen performing divine service.

The exceptions are treason, felony, breach of peace, and, by the Act of 1863, arrests in bankruptcy. There are no longer any sanctuaries or places where persons are privileged from arrest, as the Mint, Savoy, Whitefriars, &c., on the ground of those being ancient palaces. The royal residences, actually in use as such, are privileged places; but not royal palaces, like Hampton Court Palace, which is never used as a royal residence. Except in cases of treason, felony, or breach of the peace, no arrest can be made on a Sunday, and if made on that day is void; but it may be made in the night as well as in the day.

II. *As to an arrest in criminal cases.* All persons whatsoever are, without distinction, equally liable to this arrest, and any man may arrest without warrant or precept, and outer doors may be broken open for the purpose. The arrest may be made—1st, by warrant; 2nd, by an officer without a warrant; 3rd, by a private person without a warrant; or, 4th, by a hue and cry.

1. Warrants are ordinarily granted by justices of peace on information or complaint in writing and upon oath, and they must be indorsed when it is intended they should be executed in another county (see 11 & 12 Vic. c. 42). They are also granted in cases of treason, or other offence affecting the government, by the Privy Council, or one of the secretaries of state, and also by the chief or other justice of the Court of Queen's Bench in cases of felony, misdemeanour, or indictment found, or criminal information granted in that court.

2. The officers who may arrest without warrant are—justices of the peace, for felony or breach of the peace committed in their presence; the sheriff and the coroner in their county for felony; constables for treason, felony, or breach of the peace committed in their view, and within the metropolitan police district they have even larger powers; and watchmen from sunset to sunrise.

3. A private person is bound under penalty of fine and imprisonment to arrest for a felony committed in his presence.

4. The arrest by hue and cry is when officers and private persons are concerned in pursuing felons and such as have dangerously wounded another.

The remedy for a false arrest is by an action for false imprisonment.

Arraignment is the accusation of a prisoner in open court with reference to the offence charged against him, in reply to which he is required to plead guilty or not guilty.

Arrest of Judgment is where a judgment already obtained is stayed on some plea of the defendant satisfactory to the court wherein the judgment is obtained.

Arson is the crime of wilfully and maliciously setting fire to any house or premises, and is usually applied to the felonious burning of any kind of property.

Art. See "Science and Art Department."

Articles is an expression generally applied to any agreement containing numerous parts or particulars which constitute the details of the agreement. Marriage articles, when properly executed, constitute a settlement. The term articles is also usually applied to the apprenticeship of a clerk, partnership, the particulars of a religious creed, impeachments, &c.

Articles of the Navy. The method of ordering seamen in the royal fleet, and keeping up a regular discipline there, is directed by certain express rules, articles, and orders, first enacted by the authority of parliament soon after the Restoration; but since new-modelled and altered by various statutes. In these articles of the navy, almost every possible offence is set down, and the punishment thereof annexed. The royal marine forces are subject to the discipline of the navy while on board ship; but are regulated, while on shore, by an annual Marine Mutiny Act, containing a similar recital and corresponding provisions to those contained in the annual Act applicable to the army.

Articles of the Peace are so called when any person makes affidavit that he apprehends violence towards him by any person, and requires such person to find bail for keeping the peace.

Articles of War. Certain regulations made by the sovereign under the authority of the Mutiny Act for the better government of the army. They are made with this limitation, that no person shall by such articles of war be subject to be transported as a felon, or be sentenced to penal servitude, or to suffer any punishment extending to life or limb, except for crimes which are expressly made punishable in this way by the statute itself.

Assault. A simple assault is committed when any person lifts his arm or any object in a manner threatening to any other person, whether the person threatened is touched or not. Such an assault is actionable, but is not a criminal offence. Assault and battery combined is quite a different thing. Any person who strikes, or even touches any other person in a hostile or angry manner, commits an assault and also battery, usually

described as beating, though often absurdly short of such a physical process: but, as an assault without battery is not a criminal offence, it is necessary in all cases of assault to add that the complainant was beaten, otherwise there is no magisterial jurisdiction. Assaulting and beating is usually described in brief as a "common assault," though it is not the assault but the battery that is punishable.

Assembly of the Scottish Church, the General. The General Assembly became the fixed designation of the supreme collective council, legislative and judicial, of the Scottish Church. The first assembly, when the system was of course but imperfectly developed, was held in 1561. In the ecclesiastical contests in which the country was subsequently involved, it was the object of the Presbyterian party, in opposition to the ecclesiastical party and the Crown, to vest a supreme and independent authority in ecclesiastical matters in the General Assembly. In the memorable assembly held at Glasgow in 1638, this supremacy was for a time accomplished; and after having abolished the episcopal hierarchy, the body continued to sit and act after it had been required by royal authority to dissolve. It was the principle of Cromwell's government to tolerate the various Protestant communities in their worship and ordinances, but not to permit any of them to assemble in deliberative bodies. The assembly was accordingly suppressed under his government, and this suppression continued after the Restoration. It was, however, restored at the Revolution, though William III. by no means admitted the claims of entire independence of the state which were advanced by the assembly. The assembly consists of representatives, clerical and lay, from the several presbyteries of the Church, and of a few other members. The clerical members are always in the majority. When the Free Church separated from the Establishment in 1843, it constituted a General Assembly on the same principles; and, being a voluntary church, has not of course been embarrassed by any questions with the crown. The several bodies of dissenters from the Church of Scotland, who combined together to form the United Presbyterian Church, give the name of Synod to the general aggregate body of their members, corresponding with the General Assembly in the other Scottish Presbyterian bodies.

Assessed Taxes. Under this head is comprised the duty payable in respect of private carriages, horses, dogs, male servants, hair powder, armorial bearings and the like.

Assessments, for determining the proportion which each

ratepayer is under obligation to contribute for the relief of the poor, are subject to determination by an assessment committee in each parish or union, and the rules for authorizing such committee are derived from the Union Assessment Acts, 1862 and 1864; Poor Rate Assessment and Collection Acts, 1869 and 1879; Rating Act, 1874; further provision being made by 45 & 46 Vic. c. 20.

Assessors are persons charged with the office of determining the basis upon which local rates and taxes may be levied; but an assessor is a person temporarily engaged to advise and assist any person in the exercise of a judicial office, where the person assisted is supposed to require for the business in hand the special knowledge possessed by the assessor.

Assets are the properties of an insolvent or bankrupt person, which are available for *pro rata* dividend amongst the creditors.

Assign, in legal phraseology, has two distinct meanings. It implies an accusation, as when perjury is assigned against a perjurer. It also signifies a transfer, as the "assignment of a lease."

Assignment, as most commonly understood, is when a person assigns to another all his property for distribution amongst such person's creditors. Such a course is the shortest and surest way of bringing a business to a crisis, but whether it is better for anybody than a bankruptcy depends upon circumstances. The usual course is for the debtor to execute a deed by which he assigns to one or two of his creditors the whole of his property upon trust, for distribution *pro rata* to all his creditors. This may be effectually done by the debtor without the knowledge of any of his creditors, and the assignment may be to a friend or stranger who is not a creditor, and that is sometimes preferable for all parties. To render the assignment effectual, the person or persons to whom the assignment is made must sign and seal the deed, whereby each becomes an assignee, with very considerable powers and responsibilities. The deed usually stipulates that those who refuse to join in the execution of the deed shall be excluded from all benefit under the assignment, but that does not bar the subsequent proceedings of a dissentient creditor, who remains at liberty to proceed as though no assignment had been made, and that is the risk which every debtor runs who makes an assignment. On the other hand, all who join in the execution of the deed must abide by it, and the assignee must realize and pay the dividend that may eventually accrue after paying reasonable expenses. It is

sometimes stipulated that, in consideration of the debtor assisting in the realization or for other stated reason, he shall be allowed to stand in for his dividend upon an amount named, which makes him directly interested in obtaining the largest possible dividend for the creditors as well as for himself. It is customary to make a dividend in respect of all the debts whether all the creditors join in the deed or not, and for the respective amounts to be tendered to the dissentient creditors. Their acceptance of the dividend under such circumstances extinguishes their debts; if they refuse to accept the dividend it is usually handed to the debtor, as it is subsequently left for him to fight it out with the dissentient creditors. This uncertainty is of course a great check upon assignments, and properly so, and it is not an uncommon thing for a condition to be made in the deed that if the whole or a certain proportion of the creditors do not assent, the deed shall be void; otherwise, if the aggregate amount owing to dissentients does not amount to £50, the assignees are entitled to proceed with the realization under the assignment. The facilities for liquidations under the Bankruptcy Act would seem to have made assignments less desirable and fewer than formerly, but as they may still be conducted without publicity beyond the knowledge of all the creditors, there is no certain evidence that they are seldomer resorted to, and they are still the best means of dealing with small estates. The wilful concealment from any creditor that an assignment is in progress renders the debtor and the assignee both liable to criminal proceedings for fraud. Any dissentient creditor or creditors to the joint or individual amount of £50 can immediately prevent an assignment from proceeding by counter-proceedings in bankruptcy.

Assize, Court of, and Nisi Prius, Court of. These courts, which are derived out of, and act as collateral auxiliaries to, the superior courts of Common Law, are composed of two or more commissioners, called Judges of Assize and Nisi Prius, who are twice in every year, by special commission from the crown, sent on *circuits* all round the kingdom, to try by a jury of the respective counties the truth of such matters of fact as are then under dispute in the courts at Westminster. In recent times a third circuit has been established—called the Winter Circuit—to secure the more speedy trial of prisoners charged with offences not triable at the quarter sessions. As to London and Middlesex there is this exception—that, instead of their being comprised within any circuit, courts of *nisi prius* are held there for

the same purpose in and after every term, before the chief or other judge of the superior courts, at what are called the London and Westminster sittings. The time for these sittings is fixed by the Common Law Procedure Act, 1854, sec. 2. It may be here remarked that an action relating to real property—as an action of ejectment—can only be tried in the county where the land that gives rise to the dispute is situate. Thus an action of ejectment to recover possession of land in Kent can only be tried at the Maidstone assizes. But all other actions are of what is called a transitory nature—that is, they can be tried anywhere; so that an action for an assault committed, or a debt contracted, in Kent, may be tried at York. It thus happens that, as there are very frequent sittings in London and Westminster, actions are there tried from all parts of the country.

The judges of assize came into use in the room of the ancient justices in eyre, *justiciarii in itinere*, who were first regularly established by the Parliament at Northampton, A.D. 1176, in the reign of Henry II., with a delegated power from the King's Great Court or *aula regia*, being looked upon as members thereof; and they afterwards made their circuit round the kingdom once in seven years for the purpose of trying causes. They were afterwards directed by the Magna Charta, c. 12, to be sent into every county once a year, to take or receive the verdict of the jurors or recognitors in certain actions, then called recognitions or assizes; the most difficult of which they were directed to adjourn into the Court of Common Pleas, to be there decided. The itinerant justices were sometimes mere justices of assize, or of dower, or of gaol delivery and the like; and they had sometimes a more general commission to determine all manner of causes, being constituted *justiciarii ad omnia placita*; but the present justices of assize and *nisi prius* are more immediately derived from the statute of Westminster the second (13 Ed. I. c. 80), and consist principally of the judges of the superior courts of Common Law, to whom the duty is confided of thus superintending the trial of matters of fact, at the courts of assizes and *nisi prius*—as well as that of deciding matters of law and transacting other judicial business at their sittings *in banc* (as they are called), that is, on the bench of their respective courts at Westminster. The judges upon their circuits, which are eight in number (vid. sub-title, "Circuits"), now sit by virtue of four several authorities—1. The commission of the peace. 2. A commission of *oyer and terminer* (see title, "Oyer and

Terminer"). 3. A commission of general gaol delivery, by which they are empowered to try and deliver every prisoner awaiting his trial in the prison of the county for which they are commissioned. 4. A commission of *nisi prius*, which is a consequence of the old commission of assize, being annexed to the office of justices of assize by 13 Edw. I. c. 80, and it empowers them to try all questions of fact issuing out of the courts at Westminster that are then ripe for trial. These, by the ancient course of the courts, were usually appointed to be tried at Westminster in some Easter or Michaelmas term, by a jury returned from the county where the dispute arose; but with this proviso, *nisi prius*, unless before the day prefixed the judges of assize should come into the county in question, which in modern times they have invariably done in the vacations preceding, so that the trial has always in fact taken place before those judges. Now, by the effect of the Common Law Procedure Act, 1852, the course of proceeding is not even ostensibly connected with a proviso at *nisi prius*. The term *nisi prius* has thus from an early period been connected with the ordinary trial of issues of fact in civil causes before a judge and jury, and it is now used to denote that trial. Thus the judge is said to sit at *nisi prius*, and the sittings are called *nisi prius* sittings, when the judge sits, or such sittings are held, for the purpose of trying issues of fact arising in civil causes, before a jury.

A judge of assize on arriving at the assize town of each county in his circuit is received in great state by the sheriff of the county, and the sheriff is also bound to furnish him with suitable lodgings. His first act is to open the commission and to have it read. Though this, as a matter of practice, is always done at the town where the assizes are to be held, it may be done at any place within the county.

A certain number of queen's counsel and serjeants-at-law are ordinarily associated with the judges in the commission. These are called commissioners of assize, and they assist the judges in trying prisoners or causes, where the work is heavy, or in cases where one of the judges falls ill or is otherwise prevented from sitting himself.

Associate, an officer in each of the courts of Common Law. He is appointed by the chief judge of the court, and holds his office during good behaviour. His duties are to superintend the entry of causes; to attend the sittings at *Nisi Prius*, and there receive and enter verdicts; to draw up the posters and any order of *Nisi Prius*.

Association is a word frequently used as the name of a company, subject to the Companies Acts.

Assurance is a word often used instead of insurance, but the latter is more correct. The word assurance is also common in legal documents as implying certainty with reference to some obligation.

Attachment. A summary proceeding, immemorially used by the superior courts of justice, for punishing contempts. The contempts which are thus punished are either *direct*, which openly insult or resist the powers of the courts or the persons of the judges who preside there ; or else are *consequential*, which, without such gross insolence or direct opposition, plainly tend to create a universal disregard of their authority. An attachment, therefore, is the means by which the superior courts enforce the execution of their orders. In the case of a direct contempt committed in the face of the court, the offender may be instantly apprehended and imprisoned at the discretion of the court, without any further proof or examination ; in other cases, the court makes a rule calling upon the party charged with the contempt to show cause why an attachment should not issue. The process of attachment is merely intended to bring the party into court ; and when there, he must either stand committed or put in bail, in order to answer such interrogations as shall be administered to him, for the better information of the court with respect to the circumstances of the contempt. If the party can clear himself upon oath, he is discharged ; but if perjured, may be prosecuted for perjury. If he confesses the contempt, the court will proceed to correct him by fine or imprisonment, or both.

Attainder. The immediate, inseparable consequence annexed by the common law to the sentence of death. A person so sentenced was said to be attainted, stained or blackened, and was already dead in law. The principal consequences of attainder were forfeiture and corruption of blood. Forfeiture of lands and tenements upon attainder, accrued in treason and other felonies. By attainder in treason, a man forfeited for ever to the Crown all his lands and tenements of inheritance, of freehold tenure, whether fee simple or fee tail. The forfeiture related back to the time of the treason committed. By attainder on felony other than treason, the offender forfeited to the Crown the rents and profits of all his freehold lands and tenements during his life ; and in the case of murder, he forfeited besides all lands and tenements which he had in fee simple for a year and a day,

with power to the Crown to commit what waste it pleased on them ; subject to which temporary forfeiture, they escheated to the lord of the fee by reason of the tenant's corruption of blood. This corruption of blood was another immediate consequence of the attainder, so that an attainted person could neither inherit lands from his ancestors, nor retain those he was already in possession of, nor transmit them by descent to any heir ; but the lands escheated to the lord of the fee, subject to the Crown's right of forfeiture. (Vid. title "Escheat.") Another consequence of attainder was the forfeiture of goods and chattels, which accrued to the Crown not only on attainder, but in felonies of all sorts, whether capital or not.

The whole law on this subject has, however, been recently altered by 33 & 34 Vic. c. 23, by sec. 1 of which it is provided that no confession, verdict, inquest, conviction or judgment of or for any treason felony, or *felo de se*, shall cause any attainder or corruption of blood, or any forfeiture or escheat.

Attainder, Bill of. A bill which may be introduced into either House of Parliament, and which afterwards passes through the same forms as any other parliamentary bill, to attain a person therein named. Bills of attainder became frequent in the reign of Henry VIII. A notable instance of a bill of attainder is that passed against Strafford in the first year of the Long Parliament. A bill of attainder is distinguished from an impeachment, inasmuch as in the latter case the Commons are the accusers, and the Lords the judges ; whereas a bill of attainder is carried through both houses of Parliament like any other bill ; besides, an impeachment is a judicial, whereas a bill of attainder is a legislative process. (See "Pains and Penalties, Bill of.")

Attorney and Solicitor. An *attorney* is a person duly qualified and admitted to sue out any writ or process, or commence, carry on, or defend any action or other proceeding in the name of any other person in any court of law in England or Wales ; a *solicitor* is a person duly qualified and admitted to perform the same functions in any court of equity. Up to the time of admission, the manner of becoming an attorney or a solicitor is the same. Most, if not all persons, who are admitted to practise in one court, are admitted also in the other, and are thus styled attorneys and solicitors, acting in their former capacity in the courts of law, and in their latter character in the courts of equity. The provisions relating to attorneys and solicitors are now chiefly contained in 6 & 7 Vic. c. 78, amended

by 23 & 24 Vic. c. 127. By these statutes it is enacted, that no person shall act as an attorney or solicitor, or as such sue out any writ or process, or commence, carry on, solicit or defend any action or other proceeding in the name of any other person or in his own name, in any court of civil or criminal jurisdiction, or in any court of law or equity in England or Wales, unless he shall have been admitted, enrolled, or be otherwise duly qualified to act as attorney or solicitor, either previously to, or else in pursuance of, these Acts. To entitle a person to such admission and enrolment, it is required, 1st, that he shall have served (having been duly bound by contract in writing to do so) with some practising attorney or solicitor in England or Wales a clerkship of five years; or a clerkship of three years, in case he shall have taken a degree, after examination and under such circumstances as in the Act mentioned, at the University of Oxford, Cambridge, Dublin, Durham, or London, or at the Queen's University in Ireland, or in any of the universities in Scotland; or if he shall have been a barrister or a clerk to some practising attorney, solicitor, or proctor, for the term of ten years; or have been admitted and enrolled as a writer to the Signet, or as a solicitor in the supreme courts of Scotland, or as a procurator before any of the sheriff courts. And 2nd, it is required that, in addition and subsequently to such service, he be examined by, or by direction of, one or more of the judges at Westminster—or, in the case of a solicitor, by the Master of the Rolls—touching his articles, service, fitness, and capacity to act. For this purpose, the judges, or any eight of them including the three chiefs—or, in the case of a solicitor, the Master of the Rolls—may from time to time appoint examiners and make such rules as to the examination as they may think fit. And the judges (or Master of the Rolls, as the case may be) upon being satisfied by such examination, or by the certificates of such examiners, of the competency of any candidate for admission, shall administer to him an oath to the effect that “he will truly and honestly demean himself in practice;” and after such oaths shall cause him to be admitted as an attorney of the said courts of law at Westminster, or as a solicitor in the High Court of Chancery, as the case may be, and his name to be enrolled as an attorney or solicitor of such courts.

Moreover, in addition to the examination *subsequent* to the service, the judges and Master of the Rolls may cause all persons becoming bound—with the exception of such as shall have been called to the bar, or have taken a degree in either of

the above universities, or passed certain university examinations (including the local and non-gremial examinations of Oxford and Cambridge)—to be examined in such branches of general knowledge as shall be thought proper; and may also cause persons becoming bound to be examined, *pending* the service, touching the progress they have made in acquiring the knowledge necessary for the exercise of their profession. Thus, before becoming an attorney or solicitor there are three examinations to be passed—the preliminary, the intermediate, and the final.

It is further provided that there shall be a registrar of attorneys and solicitors, whose duty it shall be to keep an alphabetical list or roll of all attorneys and solicitors, and to issue certificates as to persons who have been duly admitted and enrolled. The duties of this office are committed to "The Incorporated Law Society" until some person shall be appointed in their room.

After being thus admitted and enrolled, an attorney or solicitor must (under 16 & 17 Vic. c. 73, sec. 22) take out a certificate to practise for the ensuing year, and without such certificate he is incapable of maintaining any action to recover his fees or disbursements for business done.

The following miscellaneous provisions relate to attorneys and solicitors:—

No attorney or solicitor shall have more than two articulated clerks at the same time, nor any such clerk after he shall have left off business, or while he himself acts as a clerk. If he become bankrupt, or be imprisoned for debt for twenty-one days, the court may order his clerk to be discharged or assigned over to some other person.

An articulated clerk may serve one of his years as pupil with a practising barrister, or certificated special pleader, or with the London agent of the attorney or solicitor to whom he is bound.

Clerks whose masters have died or left off business during the term, or whose articles have been cancelled or discharged, may enter new articles with other masters, which shall be available for the residue of the term.

No attorney or solicitor may act as such while he is in prison; no attorney or solicitor shall be a justice of the peace of any county in England or Wales; but he is capable of being a justice in a county corporate, or in any city, town, liberty, or place having justices by charter, commission, or otherwise.

An attorney or solicitor cannot commence an action for his

fees or charges until after the expiration of one calendar month after he shall have delivered a bill of the same signed by him. Such party may have the bill taxed. By the recent Act (33 & 34 Vic. c. 28) attorneys and solicitors may come to an agreement with their clients fixing the remuneration to be payable to them for their services, provided always that the money payable under such an agreement shall not be received by the attorney or solicitor until the agreement has been examined and allowed by a taxing officer of the court, having authority to enforce the agreement. An attorney or solicitor is an officer of a court of law or the Court of Chancery, as the case may be. and the court will interfere in a summary manner, on application made to it, to order an attorney or solicitor to deliver up to his client any deeds, papers, or documents (subject however, to the attorney's lien on the same), or any sum of money which he may have received, or have been entrusted with, as such attorney or solicitor; or to suspend him from practising for a limited period, or even strike him off the rolls altogether, in case he misbehaves himself.

Attorneys or solicitors and barristers (vid. sub-title "Barrister") have the exclusive privilege of transacting business in the courts of justice in matters in which they are not personally concerned. For no man can conduct the practical proceedings in a cause to which he is himself not a party, unless he be an attorney or solicitor; nor is a man allowed to address the court in such a cause, unless he be either attorney or counsel. In the superior courts, indeed, the latter provision belongs to counsel alone, exclusively even of the attorneys.

Attorney-General. The chief of the law officers of the Crown. He is created by letters-patent, and is generally chosen from Her Majesty's counsel learned in the law. It is his duty to advise the Government; to exhibit informations (see title "Information"); to prosecute for the Crown in important criminal cases; to file bills in the Court of Exchequer for anything concerning the Crown in inheritance or profits. He may present petitions to the Court of Chancery in the case of the misapplication of the funds of a charity (see title "Charities.") The Attorney-General, under the royal mandate of December 14, 1813, has place and audience before the Premier Sergeant, and, by resolution of the House of Lords in 1834, before the Lord Advocates of Scotland.

Auctions. An auction by order of any court for the recovery of debts, or for distress for rent or tithes, may be conducted by

any duly authorized person, whether licensed or not; but an ordinary auction can only be legally conducted by an auctioneer who is licensed at a cost of £10 per annum; and selling by auction without such license subjects the offender to a penalty of £100, and this extends to every individual, as a clerk or servant of an auctioneer is not entitled to sell for his employer unless the clerk or servant be also separately licensed; and, during every auction, the name and address of the auctioneer who is actually officiating in person must be exhibited in a conspicuous position, and in characters legible some yards off; the penalty for non-compliance in this respect being £20. The authority of the auctioneer to sell depends upon instructions and conditions which he must abide by as between himself and his employer; but if the conditions are fraudulent he may disregard them, and if they are unreasonable they cannot be enforced. Every person who can claim to make an effectual bidding at an auction must be capable of effecting the purchase at the price he bids, so that an auctioneer is at liberty to refuse the bids of a person he thinks incapable of purchasing; and if such person insists, he must be prepared with evidence of his competence. Persons who are manifestly intoxicated, or otherwise of unsound mind, are incompetent as bidders; and if a lot is knocked down to such person, neither he nor the auctioneer is bound if there is undoubted evidence of the intoxication or insanity. The biddings of all persons under twenty-one are void, unless they are duly accredited as the agents of competent persons; but if a lot is knocked down to a minor he can insist upon his bargain, though he cannot be compelled to honour it. Formerly, a married woman could only bid as the agent of her husband, and if anything was knocked down to her, he only was liable and entitled with reference to the purchase; but since December 31, 1882, every married woman is entitled to bid and liable for her biddings on her own account. The essence of a sale by auction is that the bidder shall bid the highest price offered, and that the auctioneer shall accept the bidding by striking with his hammer, or by some other unqualified and established indication. At sales of chattels, after the striking of the hammer, the auctioneer, and the vendor through his agency, and the highest bidder are all respectively bound if the price does not exceed £10; neither can withdraw from the bargain without the consent of the other party; but if a bidder, after having bid, and *before* the fall of the hammer, whispers that he has withdrawn his bidding, he is not bound, because the

auctioneer has not accepted the offer ; any condition that biddings shall not be retracted is therefore void, though very often it is insisted upon and submitted to through ignorance of the law. When the amount of the bidding exceeds £10 the fall of the hammer alone does not suffice ; the right of withdrawing the bidding continues after the hammer has fallen until the amount is written by the auctioneer or his clerk, and until then the bidding may be withdrawn, but the writing binds all parties. Where there is a condition that a deposit shall be paid, the demand of the deposit and neglect to pay it voids the sale ; but if the deposit is waived the sale holds good.

Auctions of Landed Property involve some considerable additional points. The sale is not completed until the purchaser has signed a memorandum, by which all parties are bound if the conditions are reasonable ; but if they are unreasonable the purchaser may withdraw, and recover any deposit he may have paid. Essential error in the description of the property also entitles the purchaser to withdraw, and this equally applies to personal property.

Buying in. This term applies when the vendor directly or indirectly buys his own property to prevent it from being sold at a great sacrifice. If the auctioneer expressly and openly announces that a lot is bought in, the arrangement will generally hold good ; but if it be secretly done, so that the secret biddings induce a stranger to bid more than he would otherwise have done, it is a fraud, and, upon discovery thereof, the purchaser can legally decline the bargain if it is for chattel property ; but the Sale of Land by Auction Act of 1867 allows a condition that the vendor may bid by himself or agent at any sale of landed property, and such a condition allows of such biddings being made so that they cannot be distinguished from *bona fide* biddings, whereby fictitious contests at auctions are legalized contrary to the spirit of the common law, and the purchaser in such case can get no redress though he discover that he has thereby been induced to give an artificial price.

Misrepresentation. At an auction either of landed or personal property, any misrepresentation whereby a purchaser is wilfully deceived as to the value of the property, so as to be induced to give an enhanced price, releases the purchaser on discovery of the fraud. Concealed defects and faults that are only slight will not avail, but if they are material, and especially if the defects are manifestly fatal to the proper use of the thing purchased, the purchaser is entitled to withdraw.

Depreciation. Anything which occurs or is said at a sale which is calculated to falsely depreciate the apparent value of a lot, may be resisted by the auctioneer; or, should he fail in his duty, by the vendor; and if there be a manifest intention to depreciate the value of what is offered, the vendor is entitled to forbid the further continuance of the auction, after which all sales are void; and though the sale may proceed under very flagrant depreciation of the kind in the absence of the vendor, such vendor is entitled to refuse to abide by the sale. This is especially the case at sales of landed property, for, upon tangible evidence that anything occurred at the sale which wrongfully induced persons to refrain from bidding, the vendor is entitled to refuse to complete the sale in defiance of the auctioneer and every one else.

Audience, Court of. A court belonging to the Archbishop of Canterbury, having the same authority with the Court of Arches, but inferior to it in dignity and antiquity. The Dean of the Arches is the official auditor of the audience. The Archbishop of York has also his Audience Court.

Average is a term extensively used in marine insurance. General average is when the proprietors or underwriters of a ship or cargo are called upon to contribute in proportion to the risk they have undertaken towards the compensation of any individual of their number. Particular average is when an individual runs a special risk with reference to a particular class or portion of the property involved.

Averment is a positive statement of facts clear of all argument or inference.

Avoidance of a Decision. When a motion has been made in Parliament upon which the House happens to be unwilling to come to a vote, there are formal modes of coming to a decision, amongst which are "passing to the order of the day," or "moving the previous question." The former means that the House should, casting aside and taking no further notice of the matter then before it, proceed to the other business appointed for that day; the latter, that a vote be previously taken as to the expediency of coming to any decision on the question raised. If "the previous question" of expediency be negatived, the motion to which it referred is only got rid of for the time; whereas a direct negative to the motion itself would be a proscription of it for the rest of the session, as well as a denial of its principle. With respect to a bill, moving "that it be read this day six months" or "this day three months" is a mode of

throwing it out without coming to an express declaration against the principle of the measure.

Avowtry is another term for adultery.

Avulsion is the removal by flood of soil or surface from the land of one man to the land of another. The original owner of such soil is entitled to recover it if he thinks fit.

Away-going Crop. See "Emblements."

Bail. In all cases of felony, and in certain misdemeanours, the magistrates may take bail at the time of the examination; and in all cases where a person charged with an indictable offence is committed to prison to take his trial for the same, it is lawful at any time afterwards, and before the first day of the sessions or assizes where he is to be tried, for the magistrate who signed the warrant for his commitment to admit him to bail. The justices, however, have no power to admit any person to bail for treason, nor shall bail in that case be allowed except by order of a Secretary of State, or by the Court of Queen's Bench, or a judge thereof in vacation; while, on the other hand, the justices are bound to admit to bail in all cases of misdemeanour except that of receiving property stolen or obtained by false pretences; perjury, or subornation of perjury; concealing the birth of a child; wilful and indecent exposure of the person; riot; assault in pursuance of a conspiracy to raise wages; assault upon a peace officer in execution of his duty, or on any other person acting in his aid; neglect or breach of duty as a peace officer; or in the case of any misdemeanour for the prosecution of which the costs may be allowed out of the county rates (see 11 & 12 Vic. c. 42, sec. 28). As to all felonies, as well as the misdemeanours here enumerated, they have a discretionary power either to admit to bail or to commit to prison. By 22 Vic. c. 38, coroners are authorized to admit to bail persons charged with manslaughter. The Court of Queen's Bench, or any judge thereof in time of vacation, may admit to bail for any offence whatever.

Bail Court, The. A branch of the Court of Queen's Bench constituted under 11 Geo. IV. and 1 Will. IV. c. 70, sec. 1.

Bailee is the person to whom goods are entrusted on behalf of another. Thus a warehouseman or keeper of a depository is a bailee, as also is a carrier. Every bailee is entitled to hold the goods in his possession as a lien until his charges for warehousing or carrying, or what not, are paid. Otherwise he is, if paid for his services, bound to ensure their safe custody; but where anything is left in charge of any one for the temporary

convenience of the owner, and without any stipulation for payment, the owner must suffer the loss if the property be stolen. The same rule applies in the case of all bailees in case of fire, except so far as carriers are concerned; they are liable for every damage to goods in their charge in the absence of war or tumult; but in all other cases of bailment the owner of the goods has to suffer the loss by fire or any unavoidable calamity, only that pawnbrokers must insure and restore to ticket-holders twenty-five per cent. upon the loan as compensation for proved loss by fire.

Bailiffs, or sheriffs' officers, are either bailiffs of hundreds or bound bailiffs. Bailiffs of hundreds are appointed over those respective districts by the sheriffs, to collect fines therein and to summon juries; to attend the judges and justices at the assizes and quarter sessions, and also to execute writs and processes in the several hundreds. But as these are generally plain men and not thoroughly skilful in this latter part of their office, that of serving writs and making arrests and executions, it is now usual to join other bailiffs with them. The sheriffs being officially responsible for the official misdemeanours of these bailiffs, they are therefore annually bound in an obligation with sureties for the due execution of their office, and thence are called bound bailiffs. The sheriffs are also in the habit of appointing, at the application of a party in a civil suit, persons named by such party for the purpose of executing some particular process therein. These are called *special* bailiffs; and whenever a party thus chooses his own officers, it is held to discharge the sheriff from all responsibility for what is done by them in the execution of the process.

Bakehouses. This subject is newly dealt with by the Factory and Workshop Act, 1883, which provides that it shall not be lawful to let or suffer to be occupied as a bakehouse, or to occupy as a bakehouse, any room or place which was not so let or occupied before June 1, 1883, unless the following regulations are complied with:

No water-closet, earth-closet, privy, or ashpit shall be within or communicate directly with the bakehouse.

Any cistern for supplying water to the bakehouse shall be separate and distinct from any cistern for supplying water to a water-closet.

No drain or pipe for carrying off fecal or sewage matter shall have an opening within the bakehouse.

The penalties amount to forty shillings and five shillings per day; and for continuing any bakehouse in an unfit condition

forty shillings, and for every subsequent conviction five pounds. New obligations are also imposed upon local authorities in the matter of supervision.

Ballot Act. Vote by ballot at parliamentary and municipal elections was introduced by the Ballot Act, 1872 (35 & 36 Vic. c. 38.) The 2nd section of this Act provides that in the case of a poll at an election the votes shall be given by ballot. The ballot of each voter shall consist of a paper showing the names and description of the candidates. Each ballot-paper shall have a number printed on the back, and shall have attached a counterfoil with the number printed on the face. At the time of voting, the ballot-paper shall be marked on both sides with an official mark, and delivered to the voter within the polling station, and the number of such voter on the register of voters shall be marked on the counterfoil; and the voter having secretly marked his vote on the paper and folded it up so as to conceal his vote, shall place it in a closed box in the presence of the officer presiding at the polling station, after having shown to him the official mark at the back. Any ballot-paper which has not on its back the official mark, or on which votes are given to more candidates than the voter is entitled to vote for, or on which anything except the said number on the back is written or marked by which the voter can be identified, shall be void and not counted. After the close of the poll, the ballot-boxes shall be sealed up, so as to prevent the introduction of additional ballot-papers, and shall be taken charge of by the returning officer, and that officer shall, in the presence of such agents, if any, of the candidates as may be in attendance, open the ballot-boxes and ascertain the result of the poll by counting the votes given to each candidate, and shall forthwith declare to be elected the candidates or candidate to whom the majority of votes have been given, and return their names to the clerk of the Crown in Chancery. The decision of the returning officer as to any question arising in respect of any ballot-paper shall be final, subject to reversal in petition questioning the election or return. Where an equality of votes is found to exist between any candidates at an election for a county or borough, and the addition of a vote would entitle any of such candidates to be declared elected, the returning officer, if a registered elector of such county or borough, may give such additional vote, but shall not in any other case be entitled to vote at an election for which he is returning officer. The 3rd section creates various offences at elections. It provides that every person who (1)

forges or fraudulently defaces or fraudulently destroys any nomination-paper, or delivers to the returning officer any nomination-paper, knowing the same to be forged; or (2) forges or counterfeits, or fraudulently defaces or fraudulently destroys, any ballot-paper or the official mark on any ballot-paper; or (3) without due authority supplies any ballot-paper to any person; or (4) fraudulently puts into any ballot-box any paper other than the ballot-paper which he is authorized by law to put in; or (5) fraudulently takes out of the polling station any ballot-paper; or (6) without due authority destroys, takes, opens or otherwise interferes with any ballot-box or packet of ballot-papers then in use for the purposes of the election, shall be guilty of a misdemeanour, and be liable, if he is a returning officer or an officer or a clerk in attendance at a polling station, to imprisonment for any term not exceeding two years, with or without hard labour; and if he is any other person, to imprisonment for any term not exceeding six months, with or without hard labour. The 4th section provides that every officer and agent in attendance at a polling station shall maintain and aid in maintaining the secrecy of the voting in such station, and shall not communicate, except for some purpose authorized by law, before the poll is closed, to any person any information as to the name or number on the register of voters of any election who has or has not applied for a ballot-paper or voted at that station, or as to the official mark; and no such officer, clerk or agent, and no person whosoever, shall interfere with or attempt to interfere with a voter when marking his vote, or otherwise attempt to obtain in the polling station information as to the candidate for whom any voter in such station is about to vote or has voted, or communicate at any time to any person any information obtained in a polling station as to the candidate for whom any voter in such station is about to vote or has voted, or as to the number on the back of the ballot-paper given to any voter at such station. Every officer, clerk, and agent in attendance at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting, and shall not attempt to ascertain at such counting the number on the back of any ballot-paper, or communicate any information obtained at such counting as to the candidate for whom any vote is given in any particular ballot-paper. No person shall directly or indirectly induce any voter to display his ballot-paper after he shall have marked the same, so as to make known to any person the name of the candidate for or

against whom he has so marked his vote. Every person who acts in contravention of the provisions of this section shall be liable, on summary conviction before two justices of the peace, to imprisonment for any term not exceeding six months, with or without hard labour.

By the 12th section it is provided that no person who has voted at an election shall, in any legal proceeding to question the election or return, be required to state for whom he has voted. By section 20, the poll at every contested municipal election is, so far as circumstances permit, to be conducted in the manner in which the poll is by this Act to be conducted at a parliamentary election. The third part of the Act applies to personation at elections. Section 24 defines the offence as the applying for a ballot-paper in the name of some other person, whether that name be that of a person living or dead or of a fictitious person; or when, having voted once at any such, a person applies at the same election for a ballot-paper in his own name. It is made a felony, and punishable with two years' imprisonment with hard labour. With regard to bribery, treating, or undue influence, section 25 provides that, where a candidate, on the trial of an election petition claiming the seat for any person, is proved to have been guilty by himself or by any person on his behalf of bribery, treating, or undue influence in respect of any person who voted at such election, or where any person retained or employed for reward by or on behalf of such candidate for all or any of the purposes of such election, as agent, clerk, messenger, or in any other employment, is proved on such trial to have voted at such election, there shall, on a scrutiny, be struck off from the number of votes appearing to have been given to such candidate one vote for every person who voted at such election and is proved to have been so bribed, treated, or unduly influenced, or so retained or employed for reward, as aforesaid. The details of the regulations with regard to voting by ballot are contained in a schedule, the most important parts of which are, that polling stations are to be provided by the returning officer, each of which is to be furnished with compartments so as to enable the voters to mark their votes secretly. No person is to be admitted to vote at any polling station except the one allotted to him. The returning officer is to provide everything required for taking the poll. Every ballot-paper shall contain a list of the candidates described as in their respective nomination-papers, and arranged alphabetically in order of their surnames. Every ballot-box

shall be so constructed that the ballot-papers can be introduced therein, but cannot be withdrawn therefrom without the box being unlocked. The presiding officer at any polling station, just before the commencement of the poll, shall show the ballot-box empty to such persons, if any, as may be present in such station, so that they may see that it is empty, and shall then lock it up and place his seal upon it in such manner as to prevent its being opened without breaking such seal, and shall place it in his view for the receipt of ballot-papers, and keep it so locked and sealed. Immediately before a ballot-paper is delivered to an elector, it shall be marked on both sides with the official mark, either stamped or perforated, and the number, name, and description of the elector as stated in the copy of the register shall be called out, and the number of such elector shall be marked on the counterfoil, and a mark shall be placed in the register against the number of the elector to denote that he has received a ballot-paper, but without showing the particular ballot paper which he has received. The elector, on receiving the ballot-paper, shall forthwith proceed into one of the compartments in the polling station and there mark his paper, and fold it up so as to conceal his vote, and shall then put his ballot-paper so folded up into the box. He must vote without undue delay, and quit the polling station as soon as he has put his ballot paper into the box. The presiding officer, on the application of any voter who is incapacitated by blindness or other physical cause from voting in manner prescribed by the Act, or of any voter who makes a declaration before him of inability to read, shall, in the presence of the agents of the candidates, cause the vote of such voter to be marked on a ballot-paper in a manner directed by such voter, and the ballot-paper to be put in the ballot-box. When the poll is closed, the ballot-boxes are to be brought, sealed, to the returning officer, and by him opened. The votes are then counted in the presence of the agents of the candidates. Only the returning officer, his assistants and clerks, and the agents of the candidates may be present at the counting, except by leave of the returning officer. The returning officer shall, so far as practicable, proceed continuously with counting the votes, allowing only time for refreshment, and excluding (except in so far as he and his agents otherwise agree) the hours between 7 p.m. and 9 a.m. When the papers have been counted, they are to be sealed up in packets and sent to the clerk of the Crown in Chancery, and by him kept for a year, and then, unless otherwise ordered by the House of

Commons or one of the superior courts of law, destroyed. No person shall be allowed to open these sealed packets, except by the like order. For the purpose of taking the poll, the returning officer may use, free of charge, any room in a school receiving a grant out of moneys provided by Parliament, and any room the expense of maintaining which is payable out of any local rate. But he shall make good any damage done to such room.

Banc (or Banco), Sittings in. The sittings of a superior court of common law as a full court, as distinguished from the sittings of single judges at *Nisi Prius* or on circuit. Such sittings may be held out of term as well as in term. In each court there are a Special Paper (in which are entered demurrers, special cases, &c.) and a New Trial Paper, in which causes are entered after a rule for a new trial has been granted on motion. In the Queen's Bench, there is, besides these, a Crown Paper, in which cases on the Crown side of that court are set down. Each court sets apart particular days in each week in turn for these papers respectively; and on those days on which the New Trial Paper is taken the court first hears motions. By a recent Act (33 & 34 Vic. c. 6) provision is made for enabling any of the superior courts to avail itself of the assistance of a puisne judge of any other superior court.

Banking and Bank of England. The Bank of England was first established by the Act 5 Will. & Mary, c. 20, which empowered their Majesties to receive voluntary subscriptions from any persons (native or foreign), or from any body corporate, to the amount of £1,200,000, to be paid into the exchequer towards the prosecution of the war with France, and by letters patent under the great seal (which were in fact afterwards granted under date 27th July, 1694) to incorporate all such subscribers into a company, to be called "The Governor and Company of the Bank of England," and such subscribers were to be paid, by way of interest, out of the duties to be levied under that Act, £100,000 per annum. The corporation so created was prohibited from buying or selling goods. But the Act declared the Bank entitled to deal in bills of exchange; or to buy and sell bullion, gold or silver; or to sell any goods left with it on pledge and not redeemed at the time agreed upon or three months after; and to sell goods, the produce of lands which it should have purchased. Shortly after its establishment the Bank began the practice, which it has ever since maintained, of issuing its own notes. By subsequent Acts the capital of the Bank was pro-

gressively increased, and an exclusive privilege or monopoly established in its favour; for by one of these (8 & 9 Will. III. c. 20) it was enacted that no other bank or company in the nature of a bank should be established by Act of Parliament within the kingdom; and by others (*viz.* 6 Anne, c. 22, and 39 & 40 Geo. III. c. 28), that it should not be lawful for any other corporation, or for more than six persons united in partnership, in England, to borrow, owe, or take up any money on their bills or notes, payable on demand, or at less time than six months from the borrowing thereof. These exclusive privileges (popularly termed the Bank Charter) have since been in part relinquished.

Subject to the Bank Charter, as from time to time modified, the trade of banking has from its first introduction been entirely free, and other banks besides the Bank of England have consequently been established among us, both in London and in the country, many of the latter having, like the Bank of England, been *banks of issue*, that is, have made payments by their own notes, while the London banks have been mere *banks of deposit*, making payments in cash and Bank of England notes only, and not in their own notes.

The Bank of England, beyond carrying on the business ordinarily incident to banking, has also been employed as a great engine of State, by receiving and paying the interest due to the public creditors; by circulating exchequer bills; by accommodating the government with advances, and by assisting generally in the great operations of finance.

In the year 1797, owing to a temporary failure in public credit and a consequent run upon the Bank, it was deemed necessary to restrain it for a limited period from making payments in cash; and an Act of Parliament (37 Geo. III. c. 45) was passed in that year for the purpose, the provisions of which were continued by subsequent Acts till May 1, 1823, when cash payments were resumed.

In the year 1826 (by Act 7 Geo. IV. c. 46) branches of the Bank of England were established in various parts of the country, and as to these it was subsequently provided by 3 & 4 Will. IV. c. 98, that after Aug. 1, 1834, all the Bank of England and promissory notes on demand, issued at any of these branch banks, should be made payable at the place where they should be issued, so that the Bank should not be liable to pay at a branch bank any note not specially made payable there; but on the other hand, should be bound to pay in London all notes whether of the Bank of England itself or of its branches.

In 1826 it was, by consent of the Bank of England, provided by the above-mentioned Act of 7 Geo. IV. c. 46, that after the passing of that Act it should be lawful for any corporation created for the purpose of banking—or any number of persons in co-partnership, though consisting of more than six—to carry on the trade of bankers in England, and to issue their bills or notes at any places in England exceeding sixty-five miles from London, payable on demand, or otherwise, at some place or places specified on such bills or notes exceeding sixty-five miles from London, and not elsewhere. Joint-stock Banks are, however, now regulated by the Companies Act, 1862 (25 & 26 Vic. c. 89).

By the above-mentioned Act of 3 & 4 Will. IV. c. 98, the privileges theretofore belonging to the Bank of England—subject to the modifications just alluded to—were confirmed; but it was declared that any corporation or partnership (though consisting of more than six persons) might carry on banking in London or within sixty-five miles thereof; provided that it did not borrow, owe, or take up in England any money on their bills or notes payable on demand or at less than six months from the borrowing. The Act at the same time reserved to country banks carrying on business more than sixty-five miles from London, and not having any banking house in London or within sixty-five miles, to make and issue their bills and notes payable, on demand or otherwise, at the place where issued (being beyond the radius), and also at their agents' in London; provided that no such bill or note should be for a less sum than £5, and should not be re-issued in London or within sixty-five miles thereof. The Act further made the tender of a note of the Bank of England for £5 and upwards a legal tender, so long as the Bank continued to pay their notes on demand in coin.

In the year 1844 was passed the 7 & 8 Vic. c. 32 (commonly known as the Bank Charter Act), by which the Bank Charter was continued, subject to twelve months' notice and the repayment by parliament of certain debts therein specified. It further provided that the issue of Bank of England notes payable on demand should thereafter be kept distinct from their general banking business—that the Bank should, on Aug. 1, 1844, transfer to its "issue department" securities to the value of fourteen millions, and also so much of the gold coin and gold and silver bullion as should not be required by its banking department; that thereupon there should be delivered out of the issue department into the banking department such an amount of Bank of England notes as, together with those in circulation,

should be equal to the aggregate amount of the securities, coin, and bullion, so transferred to the issue department; that the whole amount of its notes in circulation (including those delivered to its banking department) should be deemed to be issued on the credit of such securities, coin, and bullion; that the amount of such securities should not be increased, but might be diminished and again increased, so as not to exceed the sum of £14,000,000; and that, after such transfer as just mentioned to its issue department, it should not be lawful for the Bank to issue Bank of England notes, either into its banking department or to any person whatever, save in exchange for other Bank of England notes, or gold coin or gold or silver bullion, or securities acquired in the issue department under the provisions of the Act. Thus since the year 1844, it has not been lawful for the Bank to issue notes in excess of the limits here mentioned, and if, on the occasion of a great commercial crisis, it has been found desirable (as it was in 1857) to issue notes beyond those limits, it has been necessary to pass an Act of indemnity.

As to *Banks of Issue* (other than the Bank of England), the Act of 1844 provided that it should not in future be lawful for any banker to issue notes payable to bearer on demand, except bankers who, on May 6 in that year, were carrying on the business of bankers and were then lawfully issuing such notes. But as to these it was provided that if any of them should become bankrupt, or cease to carry on the business, or discontinue the issue of notes, his privilege in this respect was to cease and to be incapable of revival. It further provided that no such banker should thereafter have in circulation a greater amount of notes than the average amount which he had circulated before the passing of the Act. And further, that if any such banker should cease to issue his own notes, it should be lawful for the Queen in Council to authorize the Bank of England to increase the £14,000,000 of securities in the issue department, in the proportion of two-thirds of the amount so withdrawn from circulation.

As to Banks in general (other than the Bank of England), the same Act provided that every banker should, on Jan. 1 in every year, or fifteen days after, make a return to the Board of Inland Revenue of the name, residence, and occupation of every member of the partnership; of the name of the firm and of the place where the business is carried on, and that such Board should, on or before March 1 in every year, publish the same in some newspaper circulating in the town or county.

It was also declared that, for the future, it should be lawful for all banking co-partnerships (though exceeding six in number) carrying on the business of banking in London or within sixty-five miles thereof, to draw, accept, or indorse bills of exchange not being payable to bearer on demand, anything in the Act 3 & 4 Will. IV. c. 98 to the contrary notwithstanding.

By 20 & 21 Vic. c. 49, sec. 12, it was provided that it should be lawful for any number of persons, not exceeding *ten*, to carry on in partnership the business of banking in the same manner and on the same conditions in all respects as any company of not more than *six* persons could before the passing of that Act have done.

The last Act that affects banks is 25 & 26 Vic. c. 89—the Companies Act of 1862. (As to the general provisions of this Act, vid. sub-title “Company.”) The special provisions of this Act affecting banks are three in number. 1. No company or association consisting of more than ten persons shall be formed for the purpose of carrying on the business of banking, unless registered as a company under the Act or letters-patent. 2. No banking company claiming to issue notes in the United Kingdom shall be entitled to limited liability in respect of such issue. 3. Every banking company existing at the time of the passing of the Act, which registers itself under the Act as a limited company, shall give such notice of such its intention to its customers as is in the Act provided.

Bankers' Books. An Act was passed in 1876 for enforcing the production of evidence from bankers' books, which Act was repealed and re-constructed in 1879 by the 42 Vic. c. 11, which provides that “on the application of any party to a legal proceeding, a court or judge may order that such party may be at liberty to inspect and take copies of any entries in a banker's book for any of the purposes of such proceedings. An order under this section may be made either with or without summoning the bank or any other party, and shall be served on the bank three clear days before the same is to be obeyed, unless the court or judge otherwise directs;” and “a copy of an entry in a banker's book shall in all legal proceedings be received as *prima facie* evidence of such entry, and of the matters, transactions, and accounts therein recorded.”

Bankruptcy. The law of bankruptcy was placed on a new footing by the Bankruptcy Act, 1883, taking effect Jan. 1, 1884. By that Act jurisdiction in bankruptcy is limited in London to the Bankruptcy Division of the High Court, to the exclusion of

the County Courts of Bloomsbury, Bow, Brompton, Clerkenwell, Lambeth, Marylebone, Shoreditch, Southwark, Westminster, and Whitechapel. Outside the boundaries of those courts each county court has jurisdiction in bankruptcy within its own district subject to modifications of districts by the Lord Chancellor. Apart from this jurisdiction, the Board of Trade is endowed with the new powers and duties of superintending and controlling bankruptcy business, and appointing of officers in bankruptcy. One of the chief duties of the Board of Trade is to appoint to each bankruptcy district an official receiver, or several official receivers, and deputy receivers. The Board also has control over the whole of the banking arrangements and public accounts in bankruptcy.

Acts of Bankruptcy. Before proceedings in bankruptcy can be commenced the debtor concerned must have committed some act of bankruptcy within the previous three months, and an act of bankruptcy is committed by a debtor when he does or permits anything in the following enumeration, that is :

If in England or elsewhere he makes a conveyance of assignment of his property to a trustee or trustees for the benefit of his creditors generally ; or,

If in England or elsewhere he makes a fraudulent conveyance, gift, delivery, or transfer of his property, or of any part thereof ; or,

If in England or elsewhere he makes any conveyance or transfer of his property or any part thereof, or creates any charge thereon which would under this Act or any other Act be void as a fraudulent preference if he were adjudged bankrupt ; or,

If, with intent to defeat or delay creditors, he departs out of England ; or,

Remains out of England ; or,

Departs from his dwelling-house or otherwise absents himself ; or,

Begins to keep house, that is, shuts himself in his house so as to avoid communication with his creditors ; or,

If execution issued against him has been levied by seizure and sale of his goods under process in an action ; or,

If he files in the Court a declaration of his inability to pay his debts ; or,

If he presents a bankruptcy petition against himself ; or,

If a creditor has obtained a final judgment in an action against him for any amount, and execution thereon not being stayed, has served on him in England, or, by leave of the Court, elsewhere, a bankruptcy notice under the Act, requiring him to pay the judgment debt in accordance with the terms of the judgment, or to secure or compound for it to the satisfaction of the creditor or the Court, and he does not, WITHIN SEVEN DAYS after service of the notice, in case the service is effected in England, and in case the service is effected elsewhere, then within the time limited in that behalf by the order giving leave to effect the service, either comply with the requirements of its notice, or satisfy the Court that he has a counter-claim, set-off, or cross demand which equals or exceeds the amount of the judgment debt, and which he could not set up in the action in which the judgment was obtained ; or,

If the debtor gives notice to any of his creditors that he has suspended, or is about to suspend, payment of his debts.

Proceedings in Bankruptcy. Any debtor is entitled to present a petition with reference to himself, and if he does so he thereby commits an act of bankruptcy, upon which the Court must make a receiving order as hereafter described; otherwise, one or more of the aforesaid acts of bankruptcy having been committed by a debtor, any one of his creditors to whom he owes £50 or upwards, or any number of his creditors for smaller amounts whose aggregate claims are £50 or upwards, may within three months afterwards present a petition to the court having bankruptcy jurisdiction within the district where the debtor has resided or carried on business for the greater part of the previous six months; or if he has resided or carried on business in several places within six months, then in that where he has done so the longest. If a wrong court is resorted to in error, the case may be transferred to any other court that appears to be the right one or more preferable one, always bearing in mind that the debtor must in every case have resided or carried on business in England some time during the previous twelve months. Upon presentation of a petition as aforesaid the court is required to appoint a day for the hearing of the petition, and the debtor is entitled to notice accordingly, as provided by the rules. If at the hearing it is proved that the debtor has not been duly served with notice, or that the alleged act of bankruptcy has not been committed, or that the petitioner or petitioners be not entitled to petition, the petition must be dismissed; if, on the contrary, all the evidence sufficiently sustains the allegations of the petition, the court must make a receiving order.

Receiving Orders. The first action of the court in every case of bankruptcy proceedings is to make a receiving order, the immediate effect of which is not to make the debtor a bankrupt (which, in the ordinary course, cannot occur at that stage), but to stay all proceedings against the debtor or his estate, at the same time transferring all the property ostensibly belonging to the debtor to the official receiver of the court, whose duty it is to take immediate possession, and, if he thinks fit, to continue the carrying on of the business of the debtor, for which purpose the official receiver is entitled to appoint a special manager, and to employ the debtor in or about his business if it appears desirable so to do. Meanwhile notification of the receiving order must be published in the *London Gazette* and advertised

in a paper circulating in the district. All post letters addressed to the debtor must be delivered to the official receiver.

Position of the Debtor. If any time after the petition is presented there is sufficient evidence that the debtor is likely to abscond, or that he is justly suspected of an intention to remove, conceal, or destroy his property, books, or written evidence as to the state of his affairs, the court has power to order his immediate arrest and imprisonment and the seizure of everything in his possession. In the absence of evidence for such a course the debtor is entitled to his personal liberty, but he must conform in all things to the rules of the court and the lawful requirements of the official receiver. The debtor is under obligation to deliver into the possession or control of the official receiver all his property, books, papers, and effects, and to disclose all information in reference thereto which may be necessary for the future management of his affairs, and to give every assistance in his power in the acquisition and realization of his property, it being very much at his future peril to conceal anything material that may affect the value or disposition of the property.

Debtor's Statement. Every debtor concerning whom a receiving order is made is under obligation to prepare a statement of his affairs, including a list of his creditors and debtors showing the respective amounts payable and receivable, with particulars of all securities and property, showing his liabilities and assets, and any special information which the official receiver may lawfully demand. If the petition be presented by the debtor, such statement is required to be ready in three days after the making of the receiving order: if on a petition by a creditor or creditors, in seven days after the making of the receiving order, unless longer time be expressly given by an order of the court. Every such statement must be verified by affidavit or declaration by the debtor. Any person who, in writing, states himself to be a creditor of the debtor, is entitled to inspect the debtor's statement personally or by agent, and to take a copy of or extracts therefrom, an untruthful claim to do so being punishable as contempt of court.

Property in Bankruptcy. Whether a debtor is eventually made bankrupt or not, if a receiving order is made in reference to him, his property immediately becomes what is called "property in bankruptcy," the whole of which, so far as the debtor knows, must appear in his statement of affairs, including all such property as may belong to or be vested in the debtor at the

commencement of the proceedings, and all that may become vested in or devolve upon the debtor before the conclusion of the proceedings. The *bonâ fide* present and prospective separate property of the debtor's wife is expressly and totally exempted from liability, but, otherwise, property in bankruptcy involves goods in the possession, order, or disposition of the debtor in his trade or business by the consent and permission of the true owner under such circumstances that the debtor is the reputed owner thereof; debts due to the debtor, bills, securities, cheques, books, deeds, documents, letters, and writings appertaining to the debtor's property or business; goods under execution in possession and proceeds of executions that have been realized within fourteen days previously, if exceeding £20; stock, shares, or other property transferable in the books of any company, office or person; property in the hands of any agent of the debtor, treasurer, banker, or attorney; landed property of every description, including copyholds; settlements made by the debtor other than *bonâ fide* in consideration of marriage, until two years after the date of the settlement, or until ten years after the date of the settlement, unless it can be proved that the debtor was solvent at the time of making the settlement; preferential payments and dispositions of property without consideration made within three months before the earliest act of bankruptcy upon which the petition is founded; and all payments or dispositions of property, whether preferential in their nature or not, made after date of the receiving order. With reference to all property capable of delivery, any person acting under warrant of the court may seize any part of the property of the debtor, either in the custody or possession of the debtor or any other person, and such seizure may be effected by breaking open any house, building, or room of the debtor where the debtor is supposed to be, or any building or receptacle of the debtor where any of his property is supposed to be; and where the court is satisfied that there is reason to believe that property of the debtor is concealed in a house or place not belonging to him, the court may, if it thinks fit, grant a search warrant to any officer of the court or constable, who may execute it according to its tenor, which may include breaking in.

Prospective Property in Bankruptcy. The Act of 1883 renders liable in bankruptcy the future property and future interests which the debtor may have in prospect, either absolute or contingent, such future property and interests having previously been for the most part reserved to bankrupts. Such prospective

property includes deferred legacies; sequestration of benefices subject to special provisions; pay, half-pay, and pensions of officers and servants in the army, navy, and civil service of the Crown; landed interests in prospect of tenants in tail; after-acquired property and future earnings or other income, whether visible or invisible, concerning which the court has power to enter judgment conditionally upon acquisition, subject only to leave of the court being requisite before execution can issue thereon.

Distress and Executions in Bankruptcy. The right of distress is enforceable upon the premises in respect of which rent is due without regard to whether the property is in bankruptcy, subject to the common law of distress elsewhere referred to, but the rent so recoverable cannot extend beyond that due for the previous twelve months. Every execution must proceed to sale *by auction*, and the proceedings can be stopped by the official receiver any time before the sale is effected, or, if effected after date of receiving order, the proceeds go to the official receiver. If the sale be effected before the *presentation* of the petition, the officer into whose hands the proceeds are paid must, if exceeding £20, hold the same for fourteen days, and if he during that time receives notice of a bankruptcy petition with reference to the execution debtor, such officer must continue to hold the amount, and if a receiving order is made upon the petition, he must pay the amount, less costs, to the official receiver.

Evidence of Property in Bankruptcy. The court has power to summon and require evidence from the debtor, or his wife, or any person known or suspected to have property of the debtor in his possession, or any person supposed to be indebted to the debtor or to be capable of giving information in reference to his property. Every person summoned to give such evidence is entitled to tender with the summons of a reasonable amount according to the circumstances, and is then subject to severe punishment for non-attendance. If any such witness admits indebtedness to the debtor or possession of any of his property, the court is empowered to make an order for immediate payment or delivery, severe punishment resulting from false statements or non-compliance with such an order.

Proof of Debts. Before a creditor in bankruptcy can recover upon his claim he must make formal proof of the debt alleged to be due to him. Debts are said to be unprovable when they are for unliquidated damages, or when the debt has been in-

curred after the creditor has notice of any act of bankruptcy by the debtor upon which proceedings in bankruptcy might have been founded. Provable debts include all not just alluded to, and comprise all debts or liabilities, present or future, certain or contingent, to which the debtor is subject at the date of the receiving order, or to which he may become subject before his discharge by reason of an obligation incurred before the date of the receiving order. Set-off has full operation either way. If the balance is against the creditor he must pay the balance in full, but need not pay more; if the balance be in favour of the creditor he can prove for the amount of such balance only subject to the dividend thereon. Every proof of debt must be in the prescribed form, verified by affidavit or declaration, and subject to the numerous rules for the government of proofs. Any creditor who holds security is at liberty to realize upon his security if he can. If he does not realize and desires to prove, he must either give up his security or put his own estimate upon its value. If such value is greater than the amount of his claim he is liable for the balance; if less, he can prove for the balance, and the official receiver or trustee is entitled to purchase the security at the valuation put upon it by the creditor. If the value cannot be estimated it must be tested by auction subject to rules, but a creditor is not entitled in any case to realize more than twenty shillings in the pound and costs. The other contingencies respecting debts are provided for in the rules, and refer to distinct contracts, interest, debts payable at a future time, grounds for admission of proofs, rejection, and appeals.

Public Examinations of Debtors. Whether proceedings in bankruptcy are initiated by a debtor or a creditor—whether with an original intention of effecting a composition or of enforcing a bankruptcy—the debtor must submit to a public examination in open court before he can be released from his obligations to his creditors, and before his responsibilities to the court can be put an end to. With reference to every receiving order, the court is required to appoint a stated day for the holding of a public sitting of the court for the examination of the debtor, “as soon as conveniently may be” after the expiration of the time for the submission of the debtor’s statement of affairs before referred to; and whether such statement of affairs has been duly submitted or not; but every such public sitting is subject to adjournment from time to time for any reason assigned at the discretion of the court. The debtor must

attend every examination or adjournment thereof unless the court is satisfied that severe illness or other sufficient cause justifies his absence. The debtor must be examined upon oath or an equivalent thereof. His examination must have reference to his conduct, dealings, and property; and it is expressly described as his duty to answer all such questions as the court may put, or allow to be put to him; and such notes of the examination as the court thinks proper may be taken down in writing, and the debtor must sign the notes so taken; and they are expressly permitted to be used as evidence against the debtor at any subsequent stage of the proceeding, and must be open to the inspection of any creditor at all reasonable times. The court, the official receiver, with or without counsel, the trustee if there be one, and any creditor, personally or by representative, are entitled to ask the debtor questions. When the court is of opinion that the affairs of the debtor have been sufficiently investigated, it must make an order declaring that the examination is concluded; but such order cannot be made until after the day appointed for the first meeting of creditors.

Creditors in Bankruptcy. Every creditor who has proved is entitled to all the rights of his position, and is especially entitled to take part in every meeting of creditors, to which a creditor who has not proved is not entitled to admission. Presence at any meeting may be in person or by proxy. A general proxy to vote upon all subjects must be to some person in the regular employment of the creditor. A special proxy to do any one thing and one thing only may be to any person, and that one thing may be to elect such person to an office of trusteeship, or other emolument; but if such person is proved to have canvassed for proxies for that purpose he must be totally deprived of the remuneration otherwise due to him. Subject to the foregoing provisions and to numerous elaborate rules, meetings of creditors have great power, especially the first meeting or any adjournment thereof. Such meeting has the unqualified power to decide that the debtor shall be adjudged bankrupt. An ordinary resolution suffices for that purpose, and, upon report of such resolution, the court has no option but to make an order of adjudication accordingly. If such meeting refuses or neglects to pass any resolution, the like result ensues, and the debtor becomes bankrupt. On the other hand, such meeting is entitled to assent by special resolution to any composition or arrangement with the debtor that may be submitted. Such special resolution, to be effectual, must be reaffirmed at a subsequent

meeting by the affirmative votes, given personally or by proxy, of not less than three-fourths in value of all the creditors who have proved, subject to the following contingencies.

Compositions and Arrangements. When the creditors have agreed to a composition or arrangement by special resolution confirmed as before described, such resolution must be submitted to the court, when, if the court is of opinion that the terms are not reasonable, or are not calculated to benefit the general body of creditors, the court may refer the matter back to the creditors, or finally refuse to sanction any composition or arrangement; and the result must then be the bankruptcy of the debtor. If, however, the court sanctions the composition or arrangement, the court has power to make an order which renders it binding upon all the creditors; and the court possesses full power to enforce the conditions whatever they are. If, under any composition or arrangement, default is made in payment of any instalment, or if legal difficulties or unreasonable delays arise to the prejudice of either creditors or debtor, or the arrangement proves to have been procured by fraud, then the composition or arrangement may be declared annulled and void, and the debtor must become bankrupt. On the other hand, if the terms of a composition or arrangement are entirely fulfilled, the process, so far as debts are concerned, is equivalent to the discharge of the debtor without the opprobrium or the consequences of bankruptcy.

Bankruptcy. When the debtor is not proved to have been guilty of what is called a fraud in bankruptcy, he cannot be made a bankrupt until all the previously named attempts have been made to save him from that extremity; but if those attempts fail, then there is no alternative but bankruptcy, which may occur in any of the following ways: If the creditors at their first meeting or any adjournment thereof, by ordinary resolution, resolve that the debtor be adjudged bankrupt, or pass no resolution, or do not meet, or if a composition or scheme is not accepted or approved within fourteen days after the conclusion of the public examination of the debtor, or such further time as the court may allow; then, in either case, the court must adjudge the debtor a bankrupt. Also, if the court refuses to sanction any composition or scheme agreed to by the creditors; or the debtor makes default in any instalment; or the composition or scheme proves to be unworkable; or the debtor is proved to have been guilty of any fraud, or other misconduct; then, in either case, the court may adjudge the debtor a bankrupt without regard to the wishes of the creditors.

Personal Effect of Bankruptcy. Every adjudication of bankruptcy must be gazetted and advertised in a local paper. The bankrupt is disqualified as a member of either house of Parliament, and he cannot be a candidate or representative upon any public body, imperial or local. Such disqualifications continue until the bankruptcy is annulled, or until the bankrupt, in addition to his discharge, has procured a certificate to the effect that the bankruptcy was caused by misfortune without any misconduct on the part of the bankrupt. Meanwhile, if the bankrupt, before his discharge, obtains goods upon credit to the extent of £20 or upwards, without notifying the person who gives the credit that he is an undischarged bankrupt, he may be adjudged guilty of misdemeanour and punished accordingly.

Frauds in Bankruptcy. A fraud in bankruptcy is committed when a debtor does certain things with a fraudulent intent, that is, is guilty of concealment of affairs; withholding of property, books, or papers; concealment or removal of property to the value of £10 within four months before presentation of the petition; omission from statements; allowing false debts to be proved without reporting the same; prevention of disclosures by keeping back of books and other evidence; making false entries; alteration of accounts; pretending to fictitious losses; obtaining credit by false representations within four months before presentation of the petition; obtaining credit by false pretences in the way of his trade when not able to pay; pawning stock-in-trade that he has not paid for; false representations to induce his creditors to come to an arrangement; taking property abroad to evade his creditors. The last-named offence is felony, and the others misdemeanour, and punishable as such in manner of any criminal offender. Upon report of fraud the court has the same power of commitment for trial as that exercised by a stipendiary magistrate, and the alleged offence must be submitted to a jury and is subject to a verdict accordingly, the limit of punishment being two years' imprisonment with hard labour. If a creditor makes a fraudulent claim in bankruptcy, he is liable also to the like processes and punishment as if he were a fraudulent debtor.

Annulment of Bankruptcy. This may arise when the bankrupt has paid his bankruptcy debts in full; or when his creditors and the court have assented to a composition or arrangement. In either case, the court, on application of the debtor, must make an order of annulment, which must be gazetted and advertised.

Discharge of Bankrupts. So far as debts are concerned the discharge of a bankrupt is a complete release. When a bankrupt

has proved his public examination (not before) he may move the court to discharge him, and the court must publicly hear the application. Every creditor is entitled to have notice of the hearing, and may attend and oppose personally or by representative, as may the trustee (if any) or the official receiver, who must present a report concerning the conduct of the debtor throughout. If it appears that the debtor has been guilty of fraud, his discharge must be refused for life! If, before the petition was presented, it is proved that he did not keep proper books; that he continued to trade when he knew he was insolvent; that he at any time obtained credit without reasonable prospect of paying; that he has brought on his bankruptcy by rash or hazardous speculations, or extravagance of living; that he has vexatiously defended just actions; that within three months of the presentation of the petition he gave any undue preference to a creditor, or creditors, when he knew he could not pay his debts; that he has been a bankrupt before; or that he has been guilty of any mild fraud short of one worthy of punishment as before described; then, in either case, his discharge may be suspended at the discretion of the court for any length of time. Failing the foregoing objections, the court may offer a discharge upon condition that the bankrupt do consent to judgment in the event of his ever becoming possessed by any means of sufficient to pay his creditors in full, or any other condition may be made respecting future earnings or other income. In the rare case of none of the foregoing obstacles arising, the bankrupt may get an immediate and unconditional discharge, with or without the certificate before referred to in relation to the personal effect of bankruptcy.

Revocation of Discharge. Every discharged bankrupt is under an obligation to render every assistance in his power in the realization of his estate. If he fails to do so, or it is subsequently proved that he has been guilty of fraud, his discharge must be revoked, with all the disqualifying consequences before referred to as personal consequences, especially with reference to credit.

Trustees in Bankruptcy. In every case of a receiving order the official receiver is the trustee until another is appointed in his stead. In every case there may be a trustee so appointed, and in every bankruptcy where there is property exceeding £300 there must be. The trustee may be a creditor or not. His nomination rests with the creditors, but the nomination must be confirmed by the Board of Trade; and if the creditors fail to nominate, or nominate a person who is not acceptable to the

Board of Trade, the Board has the sole right of appointment, subject to a subsequent suitable nomination by the creditors. Every trustee must find security to the satisfaction of the Board of Trade, to which Board he is answerable from beginning to end. His remuneration is subject to keen opposition and criticism, and must be in the nature of a commission. He is under obligation to conform to very strict rules with regard to money in hand, banking, and accounts, and the position under the new Act is one of severe responsibility throughout; but his power is almost as great as his responsibility, so that his whole career is governed by very numerous extremely onerous provisions concerning the management and disposal of bankruptcy property.

Committees of Inspection. Whenever the creditors in bankruptcy think proper, they may elect a committee of inspection from amongst themselves, no one but a creditor being qualified. The number of the committee must not be more than five nor less than three; but as long as two remain they can exercise the functions of the committee. The office of the committee is to control and advise with the trustee, and generally to promote the interests of the creditors; but it is a voluntary office with voluntary duties, no official responsibility and no emolument. Where there is no such committee the Board of Trade acts as such, so far as is necessary to the control of the trustee.

Reserve of Property in Bankruptcy. Every debtor in bankruptcy is entitled to have or hold property in his hands on trust for any other persons, and tools of his trade (if any) and the necessary wearing apparel and bedding of himself, his wife, and children, to an amount not exceeding £20.

Preferential Creditors in Bankruptcy. The following debts have priority over all others under every administration in bankruptcy:—

Parochial or other local rates due at the date of the receiving order, and having become due and payable within TWELVE MONTHS next before such time.

Assessed taxes, land tax, property or income tax, assessed to the 5th of April next before the date of the receiving order, and not exceeding one year's assessment.

Wages and salaries of clerks or servants for services during FOUR MONTHS before the date of the receiving order, not exceeding £50 each person.

Wages of labourers or workmen, either on time or piece-work, earned during the FOUR MONTHS before the date of the receiving order, not exceeding £50 each person.

The whole of the foregoing debts rank equally. They are payable in full if there be sufficient wherewith to pay the whole, but if there be not sufficient

to cover the whole they are payable by dividend *pro rata* throughout, without distinction.

Apprentices and Clerks. The status of apprentices, articulated clerks, and their masters, is liable to be affected by an order in bankruptcy :—

If both parties remain passive, there is no change of status of either ; which is an alteration of the law as it previously was ; but,

If either the master or the apprentice gives notice in writing to the trustee, to the effect that the apprenticeship is to be considered at an end, the indenture immediately becomes void ; and in that case,

The apprentice, or his legal representative on his behalf, is entitled, on application to the trustee, to the return of such portion of the premium as may appear to the trustee to be just, taking into consideration the length of time served, and all the circumstances ; or,

If the apprentice or his representative prefers it, the trustee has power to transfer the indenture and the apprentice to some other master ; in either case,

Any wages due to the apprentice come under the head of “ Preferential Creditors,” before referred to.

Small Debtors. Where a judgment has been obtained in a county court and the debtor is unable to pay the amount forthwith, and alleges that his whole indebtedness amounts to a sum not exceeding FIFTY POUNDS, inclusive of the debt for which the judgment is obtained, the county court may make an order providing for the administration of his estate ; and payment of his debts, either by instalments or otherwise ; and in full or to such extent as to the county court appears reasonable under all the circumstances ; and subject to any conditions as to FUTURE EARNINGS OR FUTURE INCOME which the court may think just. Where it appears to the registrar of the county court that the property of the debtor exceeds TEN POUNDS in value, he must, at the request of any creditor, and WITHOUT FEE, issue execution against the debtor’s goods ; but the HOUSEHOLD GOODS, WEARING APPAREL, and bedding of the debtor or his family, and the tools and implements of his trade to the value of TWENTY POUNDS, are to that extent protected from seizure. The order may be set aside if the court thinks fit, but if it goes on it is subject to special rules provided for the purpose.

Judgment Debtors. Where application is made by a judgment creditor, to a court having bankruptcy jurisdiction, for the committal of a judgment debtor, the court may, if it thinks fit, decline to commit, and in lieu thereof, with the consent of the judgment creditor, and on payment by him of the prescribed fee, make a receiving order against the debtor. In such case the judgment debtor shall be deemed to have committed an act of bankruptcy at the time the order is made.

Deceased Insolvents. Any of the creditors of a deceased debtor whose debts would have been sufficient to support a bankruptcy petition against such debtor, had he been alive, may present to the court of the district in which the debtor resided or carried on business for the greater part of the six months immediately prior to his decease, a petition in the prescribed form praying for an order for the administration of the estate of the deceased debtor according to the Law of Bankruptcy. Thereupon the court is empowered to make an order for the administration of the estate by the court in accordance with proceedings in bankruptcy, subject to special provisions for the purpose.

Dividends in Bankruptcy. It is provided that the first dividend, if any, must be declared and distributed within four months after the conclusion of the first meeting of creditors, unless sufficient reason be shown to the contrary. Subsequent dividends, if any, must be at intervals not exceeding six months afterwards. An action cannot be brought for a dividend, but the court on application of an unpaid creditor has power to order payment, and if the trustee has improperly kept back payments he must pay interest out of his own pocket.

Detailed Particulars. The foregoing memoranda relating to bankruptcy necessarily omit numerous details unsuited to the necessary brevity of these pages. Full particulars on every point of general interest are contained in the "Popular Digest of the Bankruptcy Act, 1883," published by Ward, Lock & Co. at 1s.

Baneret or Banneret, a knight made in the field by the ceremony of cutting off the point of his standard, and making it, as it were, a banner. Knights so made are accounted so honourable that they are allowed to display their arms in the royal army, as barons do, and may bear arms with supporters. They rank next to barons.

Banns is an ancient name given to a public notice of any kind, but has been for many years limited to notices of intended marriage, as dealt with under that head.

Bar, in legal phraseology, has various meanings. It is the place where prisoners stand to be tried for criminal offences, and is usually there represented by a horizontal bar; otherwise it is the place assigned to barristers, from which their designation is derived; hence, also, the so-called profession of "the bar." The word bar is also used in legal documents to imply that something is to be prevented or barred. Trial at bar is a trial before the judges of a superior court instead of at Nisi Prius. In cases concerning the Crown the attorney-general is entitled to

demand trial at bar if he thinks fit; but in all other cases, permission to try at bar is an indulgence granted or refused on application, at the discretion of the court.

Bargain and Sale, in legal phraseology, has reference especially to a sale of land, commonly called a conveyance.

Barmote Courts. Certain courts in the mining districts of the Duchy of Lancaster, for regulation of the mines and for deciding questions of title and other matters relating thereto.

Baron. This is the most general and universal title of nobility; for anciently every one of the peers of superior rank had also a barony annexed to his other titles. At the time of the conquest, indeed, the temporal nobility consisted only of earls and barons; and by whatever right the earls and the mitred clergy before that time might have attended the general council of the nation, it clearly appears, that they afterwards sat in parliament in the character of barons only. It has sometimes happened, that when an ancient baron has been raised to a new degree of peerage, in the course of a few generations the two titles have descended differently; one perhaps to the male descendants, the other to the heirs general, whereby the earldom or other superior title has subsisted without a barony. There are also instances in modern times, in which earls and viscounts have been created without annexing a barony to their other honours.

Barons of the Exchequer are now merged into the whole bench of judges of the High Court of Justice. The judges of the Court of Exchequer were termed barons, and the chief of them the Lord Chief Baron. The judges of this court, according to Selden, seem to have anciently been made out of such as were barons of the kingdom or parliamentary barons, and thence to have derived their name. This conjecture, in the opinion of Blackstone, received great strength from Bracton's explanations of Magna Charta, c. 14, which directs that the earls and barons be amerced by their peers, that is, by the barons of the Exchequer.

Baronets. The title of baronet is a dignity of inheritance, created by letters patent and usually descendible to the issue male. It was first instituted by James I. in 1611, and was then freely made a subject of sale. It was instituted in order to raise a sum of money for the reduction of the province of Ulster, for which reason all baronets have the arms of Ulster (a bloody hand) superadded to their family coat.

Barratry is felonious injury to a ship or its cargo by the captain or crew to the injury of the owner. Common barratry

is inciting others to quarrels and needless legal proceedings. The term has also been used to designate the conduct of a judge in accepting a bribe.

Barrister or Counsel. In order to become a barrister in England or Wales, a man must enter as a student at one of the Inns of Court—Lincoln's Inn, the Inner Temple, the Middle Temple, or Gray's Inn. The fees payable on such entrance amount to about £40. He will not be admitted as a student unless he either be a graduate at one of the universities, or pass an examination in Latin, English, and English History. After he is entered as a student, he has to keep twelve terms at the Inn. A term is kept by dining in hall, three times in a term if the student be a graduate of one of the universities, six times in a term in other cases. When a student has kept his terms (or, as it is commonly said, "eaten his dinners"), he may then be called to the bar by the Inn, if he either pass an examination in law held for that purpose, or produce a certificate of his having attended certain lectures in the Inn, or of his having read for twelve months in the chambers of a practising barrister.

Bath, Knights of the. An order instituted by Henry IV., revived by George I., and newly regulated in the present reign. They are so called from the ceremony formerly observed of bathing the night before their creation.

Baths. Local authorities were first authorized to construct public baths and wash-houses in 1846, and the power has been since extended, under the control of commissioners. The Act of 1878 (41 Vic. c. 14) provides for the further extension of public baths and wash-houses. It authorizes local authorities to construct swimming baths so as to be protected by a roof or other covering from the weather. It authorizes the commissioners in regulating the charges for admission to swimming baths, not exceeding eightpence for first class, fourpence for second class, and twopence for third class. It provides for the closing of swimming baths during five winter months. It gives power to make by-laws, to appoint officers, to construct and maintain anywhere a gymnasium; to borrow additional money; to remove disorderly persons, to refuse their re-admission; and authorizes superannuation allowances to officers who have been employed in connection with public baths in the metropolis. The Act of 1882 (45 & 46 Vic. c. 30) authorizes the acquisition of lands outside the respective boundaries of the local authorities.

Battel, Wager of. A form of trial formerly in use. It was used in military causes, arising in the court of chivalry and

honour; in appeals of felony; in criminal cases, and in the now obsolete real action called a writ of action. The question at issue was decided by the result of a personal combat between the parties, or, in the case of a writ of right, between their champions. It was not finally abolished (though it had then long been obsolete) till 59 George III. c. 46. (See "Hallam's Middle Ages," cap. ii., pt. ii.; p. 242.)

Battery. See "Assault."

Beadle. An ancient parochial officer, chosen by the vestry, whose business it is to attend the vestry; to give notice of its meeting to the parishioners, and execute its orders, and to assist the constable in apprehending vagrants.

Beer. The retailing of beer is mainly regulated by the Wine and Beerhouse Act, 1869, supplemented by the Licensing Act, 1880. By a subsequent Act of 1882 (15 & 46 Vic. c. 34) the licensing justices have additional discretion to refuse licenses for the sale of beer for consumption off the premises, and they are not at liberty to grant such licenses in the first instance except at a general annual licensing meeting.

Beetle (Colorado). In consequence of the destructive effects produced in America by multitudes of insects known by the name of the Colorado Beetle, an Act was passed in 1877, 40 & 41 Vic. c. 68, "for preventing the introduction and spreading of insects destructive to crops." It gives the Privy Council power to prevent "the introduction into Great Britain of the insect designated as *doryphora decemlineata*, and commonly called the Colorado Beetle;" and also gives the Privy Council power to "prohibit or regulate the landing in Great Britain of potatoes, or of the stalks and leaves of potatoes, or other vegetable substance, or other article, brought from any place out of Great Britain, the landing whereof may appear to the Privy Council likely to introduce the said insect into Great Britain, and may direct or authorize the destruction of any such article." In the event of the insects spreading, power is given to local authorities to arrest the spread and to destroy crops for the purpose, with compensation to the owners of the crops.

Bench Warrant is a warrant issued for the apprehension of any person by a judge or other authorized president of a court of assize or sessions, as distinguished from an ordinary warrant issued by a magistrate.

Benchers are the chief officers of an Inn of Court, who have the property of the Inn vested in them, with power of control as trustees and committee of management.

Benefice. Estates held by feudal tenure, being originally gratuitous, donations were termed *beneficia*, and the care of the souls of a parish thence came to be denominated a *benefice*. Lay fees were conferred by investiture or delivery of corporal possession; spiritual benefices, which were at first purely donative, now received in like manner a spiritual investiture by institution from the bishop and induction under his authority. As land escheated to the lord in defect of a legal tenant, so benefices lapsed to the bishop upon non-presentation by the patron, in the nature of a spiritual escheat. The annual tenths collected from the clergy were equivalent to the feudal render, or rent, reserved upon a grant. The oath of canonical obedience was followed from the oath of fealty required from the vassal by his superior; the primer seizins of our military tenures were copied in the firstfruits enacted from the beneficed clergy.

The word benefice is now employed to designate the several kinds of parochial preferments, *viz.*, rectories, vicarages, and perpetual curacies. All these are comprehended under the general term of benefice—a term, indeed, which in its technical sense extends not only to these, but also to ecclesiastical preferments to which rank or public office is attached, and which are described in our books as ecclesiastical dignities or offices, such as bishoprics, deaneries, and the like; but in popular acceptance it is almost invariably appropriated to rectories, vicarages, and perpetual curacies.

Provision is made for the augmentation of small benefices by the Governors of Queen Anne's Bounty (see title "Queen Anne's Bounty"). By a recent Act (26 & 27 Vic. c. 120) the Lord Chancellor is empowered to sell the advowsons of a number of small livings in his gift, and hand the proceeds over to the Ecclesiastical Commissioners, who are thereupon empowered to grant any sum not exceeding one moiety of the purchase money in the augmentation of the living. By an Act of 1871 (34 & 35 Vic. c. 44) beneficed clergymen, provided they have held the benefice for seven years, and desire to be relieved from their duties in consequence of permanent mental and bodily infirmity, may under certain conditions resign their benefices and receive a retiring pension out of its revenues, which pension is not to exceed one-third part of the annual value of the benefice resigned. (See further "Advowson" and "Parson.")

Benefit Societies. See "Building Societies" and "Friendly Societies."

Benevolences. It became in the course of the reign of

Edward III. a fixed constitutional principle that the king could levy no tax without the consent of parliament, and this principle was acknowledged and observed during the reigns of the princes of the House of Lancaster. Even Edward IV. did not venture to act in direct defiance of what had thus become settled law; but he sought to evade it by levying what were called benevolences. These came in the place of the loans levied by former monarchs, and were exacted principally from wealthy traders. Persons were invited to freely give contributions of their substance to the king, and in times when the country was in an unsettled state and the royal prerogative high, the request was made in a tone and under circumstances which rendered it imprudent to refuse. Benevolences were abolished by the parliament of Richard III.; they were, however, freely levied by the Tudors, and were not finally abolished, though often protested against, till 1628, when they were declared illegal by the petition of right.

Bequeath is to dispose of personal property by will, as distinguished from a devise of real property.

Bequest is a gift by will.

Betting-houses. It is enacted by 16 & 17 Vic. c. 119, sec. 1, that "No house, office, room or other place shall be opened, kept, or used for the purpose of the owner, occupier, or keeper thereof, or any person using the same, or any person procured or employed by, or acting for or on behalf of such owner, occupier, or keeper, or person using the same, or of any person having the care or management, or in any manner conducting the business thereof, betting with persons resorting thereto; or for the purpose of any money or valuable thing being received by or on behalf of such owner, occupier, keeper or person as aforesaid, as or for the consideration for any assurance, undertaking, promise, or agreement, express or implied, to pay thereafter any money or valuable thing on any event or contingency of or relating to any horse-race or other race, fight, games, sport or exercise, or as or for the consideration for securing the paying or giving by some other person of any money or valuable thing on any such event or contingency as aforesaid; and every house, office, room, or other place, opened, kept or used for the purposes aforesaid, or any of them, is hereby declared to be a common nuisance and contrary to law." The 2nd section declares every such house to be a common gaming-house, and the 3rd section makes the owner or occupier of any such house liable to a penalty not exceeding £100.

Bill is legally as well as familiarly recognized as the name of any kind of account for goods sold or work done. In more correct phraseology, invoice, account, or statement are terms more generally recognized, but the looser expression bill (understood in trading circles as an acceptance) is in a great measure perpetuated by legal adherence to the expression "bill of costs" in reference to a solicitor's account.

Bill of Indictment is the formal charge presented to a grand jury against a prisoner in respect of a criminal offence. The grand jury has the unqualified right of deciding upon the merits of an indictment. If they indorse it "true bill," the case must go for trial; but if they indorse it "no bill," the indictment is quashed, the prisoner cannot be indicted again for the same offence, and he is entitled to immediate discharge.

Bill of Attainder is a bill introduced into parliament for subjecting any person or persons to the pains and penalties of attainder.

Bill of Exceptions. If a judge, in conducting a civil action, was in error on important points of law, and directed the jury or arrived at any decision as a consequence of such error, the counsel whose client was aggrieved was entitled to require such judge to seal a bill of exceptions or statement in writing of the point or points concerning which error was alleged; but bills of exceptions were abolished in 1873.

Bill in Parliament. See "Statutes."

Bills of Exchange. The law relating to bills of exchange was consolidated and amended in 1882 by 45 & 46 Vic. c. 61, by which a bill of exchange is defined to be an unconditional order in writing addressed by one person to another, signed by the person giving it, requiring the person to whom it is addressed to pay on demand, or at a fixed or determinable future time, a certain sum in money to, or to the order of, a specified person, or to the bearer. If it orders any act to be done in addition to the payment, it is not a bill of exchange.

A bill may be drawn payable to, or to the order of, either the drawer or the drawee. If the drawer and drawee be the same person, or if the person be a fictitious person, or a person not qualified to contract, the holder may treat the instrument, at his option, either as a bill of exchange or as a promissory note.

The drawee must be named with reasonable certainty. The bill may be addressed to two or more drawees, whether they are partners or not, but if expressed to be drawn upon either of two or to two or more in succession, it is not valid; but

A bill may be made payable to two or more persons jointly, or to either of two, or one of several, or to the holder of a defined office.

If a bill contains words that prohibit the transfer, or that indicate an intention that it is not transferable, it is valid as between the drawer and drawee only, and cannot be sued upon by any third party.

To make a bill negotiable it may be payable to either order or bearer, which latter arises when the last endorsement is in blank, and it is negotiable whether to order or not if it does not contain express words prohibiting transfer.

On demand is always implied, whether expressed or not, unless a time for payment be expressed.

If a bill expressed to be payable at a fixed period is issued without a date, the holder may insert the true date of issue or acceptance, and if the date be so inserted in error but in good faith, the bill is payable in accordance therewith.

Sunday may be the date of a bill.

Ante-dating and post-dating make no difference if in good faith and without fraud.

Payment is due upon a bill either on demand, if so expressed, or otherwise, in accordance with the next succeeding provisions:

Days of grace are three days added to the time when a bill is expressed to be payable, and such days of grace are legally compulsory, though no mention be made thereof; but a bill may expressly exclude days of grace, and then they are not allowable; yet, though that be possible, it is probably never acted upon, days of grace being universally recognized and submitted to.

When the last day of grace falls on Sunday, Christmas Day, Good Friday, or a day appointed by royal proclamation as a public fast or thanksgiving day, the bill is payable on the preceding business day; but

When the last day of grace is a bank holiday under the Bank Holidays Act, or if a bank holiday should occur on a Saturday and it be the second day of grace, then the bill is not due till the next following business day.

A month is a calendar month, and a bill, drawn and dated on the first of any month is due at one month and payable on the fourth of the following month, and similarly for any day upon which the bill may be drawn.

The drawer of a bill and any endorser may insert therein an express stipulation negating or limiting his own liability to the

holder ; waiving, as regards himself, some or all of the holder's duties.

Acceptance of a bill is the signification by the drawee of his assent to the order of the drawer ; such acceptance must be written on the bill, and be signed by the drawee, his signature without additional words being legally sufficient though contrary to custom. Such acceptance may be written with valid effect either before the draft is written or afterwards, or after it is over-due. It must not express that the drawee will perform his promise by any other means than the payment of the money.

When a bill is a payable after sight, and it has not been accepted on presentation, but is afterwards accepted, the holder is entitled to have the bill accepted as of the date of first presentment.

If a person writes his name across a blank bill stamp, the person to whom he hands it is entitled to make the draft for any amount the stamp will cover, but this must be done within reasonable time ; but an unreasonable delay will not operate against a third person who is a holder for value.

If a person signs a bill in an assumed or trade name, he is liable thereon as if he had signed his own name ; and,

Every partner is separately liable for the signature of the name of the firm written by any one of the firm or with his authority.

An unauthorized signature is to all intents and purposes a forgery, rendering the writer liable to criminal proceedings, and binding upon no one ; but an allegation that a signature is unauthorized will not bar responsibility unless forgery be proved.

Signing as for and on behalf of another will not commit that other if there is no authority proved, but it will commit the person who signs, who becomes responsible should the other repudiate.

Consideration for a bill, usually expressed as "for value received," is presumed unless the contrary be shown, but the drawer of a bill cannot sue thereon unless he can prove that it was given for a consideration, though this does not affect third parties who are subsequent holders, whose rights are valid whether there was consideration or not, and the consideration may be of the most insignificant character in any case, as "value" does not imply any particular value, but anything in consideration of which the person is induced to give his acceptance.

An accommodation party to a bill is a person who has signed a bill as either drawer, acceptor, or indorsee, without receiving

value therefor, and for the purpose of lending his name to some other person. Such accommodation party is liable on the bill to a holder for value; and it is immaterial whether, when such holder took the bill, he knew such party to be an accommodation party or not.

A qualified acceptance is when the acceptor adds words that imply a condition to be complied with or a duty to be performed. The drawer is in no way bound to take a qualified acceptance that he objects to; and where a qualified acceptance is taken, and the drawer or indorser has not expressly or impliedly authorized the holder to take a qualified acceptance, or does not subsequently assent thereto, such drawer or indorser is discharged from his liability on the bill.

The holder of a bill is said to be the holder in due course, and due course implies the following circumstances:—

That he became the holder of it before it was overdue, and without notice that it had been previously dishonoured, if such was the fact;

That he took the bill in good faith and for value, and that at the time the bill was negotiated to him he had no notice of any defect in the title of the person who negotiated it; otherwise,

The title of a person who negotiates a bill is defective if he obtain the bill or the acceptance thereof by fraud, duress, or force and fear, or other unlawful means, or for an illegal consideration, or if he negotiate it in breach of faith or under such circumstances as amount to a fraud.

Endorsements on a bill imply that every party who so appears has become a party thereto for value.

Transfer of a bill from one holder to another is a negotiation of such bill. It is the duty of every holder before transferring it to endorse it, and every holder, should he discover that the previous holder's endorsement is wanting, is entitled to require such prior holder to write his endorsement.

Conditional endorsements are of no special effect, and may be disregarded as if there were no condition expressed.

Presentation of a bill is an important duty, as, if it is not properly presented, the drawer and endorsers are discharged. Every bill on demand must be presented within reasonable time; and every bill due at a time stated must be presented on the day on which it is due. Presentation must be made by the holder, or by some person authorized to receive payment on his behalf, at a reasonable hour on a business day, at the proper place, either to the person designated by the bill as payer, or to

some person authorized to pay or refuse payment on his behalf, if with the exercise of reasonable diligence such person can there be found.

Where a place of payment is specified, the bill must be there presented.

Where no place of payment is specified, but the address of the acceptor is on the bill, the bill must be there presented, at the acceptor's place of business if known, or at his ordinary residence if known. If the address of the acceptor is not known, and there be no place of presentation appointed, then it must be presented to the drawer.

If a bill is presented at the proper place, and after the exercise of reasonable diligence no person authorized to pay or refuse payment can be found there, no further presentment to the acceptor is required.

If a bill is drawn upon, or accepted by, two or more persons who are not partners, and no place of payment is specified, presentment must be made to them all.

Non-presentment in due time is excused when the delay is caused by circumstances beyond the control of the holder, and not imputable to his default, misconduct, or negligence, provided that when the cause of delay ceases to operate presentment be made with reasonable diligence; but the belief of the holder (even if well founded) that the bill will be dishonoured, and that it is therefore of no use presenting it, will not exonerate.

Dishonour of bills is of two kinds. A bill is dishonoured when it is drawn "after sight" and the drawee refuses to accept it; but the most familiarly known dishonour is when the bill is not met on presentation when due, and a bill is dishonoured by non-payment when it is duly presented for payment and payment is refused or cannot be obtained, or when presentment is excused and the bill is overdue and unpaid.

When a bill is dishonoured by non-payment, the holder has immediate right of recourse against the drawer and indorsers.

Notice of dishonour is essential to rendering every previous holder of a bill liable to the final holder, and notice must be given in compliance with the following detailed regulations.

The notice must be given by or on behalf of the holder, or by or on behalf of an indorser who, at the time of giving it, is himself liable on the bill.

Notice of dishonour may be given by an agent either in his own name or in the name of any party entitled to give notice, whether that party be his principal or not.

Where the notice is given by or on behalf of the holder, it inures for the benefit of all subsequent holders and all prior indorsers who have a right of recourse against the party to whom it is given.

Where notice is given by or on behalf of an indorser entitled to give notice as before mentioned, it inures for the benefit of the holder and all indorsers subsequent to the party to whom notice is given.

The notice may be given in writing or by personal communication, and may be given in any terms which sufficiently identify the bill and intimate that the bill has been dishonoured by non-payment.

The return of a dishonoured bill to the drawer or an indorser is, in point of form, deemed a sufficient notice of dishonour.

A written notice need not be signed, and an insufficient written notice may be supplemented and validated by verbal communication. A misdescription of the bill will not vitiate the notice unless the party to whom the notice is given is really misled thereby.

Where notice of dishonour is required to be given to any person, it may be given either to the party himself or to his agent in that behalf.

Where the drawer or indorser is dead, and the party giving notice knows it, the notice must be given to a personal representative if such there be, and if, with the exercise of reasonable diligence, he can be found.

When the drawer or indorser is bankrupt, notice may be given either to the party himself or to the trustee.

When there are two or more drawers or indorsers who are not partners, notice must be given to each of them, unless one of them has authority to receive such notice for the others.

The notice may be given as soon as the bill is dishonoured, and must be given within a reasonable time after.

In the absence of special circumstances, notice is not deemed to have been given within a reasonable time unless, where the person giving and the person to receive notice reside in the same place, the notice is given or sent off in time to reach the latter on the day after the dishonour of the bill; or where the person giving or the person to receive notice reside in different places, the notice is sent off on the day after the dishonour of the bill, if there be a post at a convenient hour on that day, and if there be no such post on that day, then by the next post thereafter.

Where a bill when dishonoured is in the hands of an agent, he may either himself give notice to the parties liable on the bill, or he may give notice to his principal. If he give notice to his principal, he must do so within the same time as if he were the holder, and the principal upon receipt of such notice has himself the same time for giving notice as if the agent had been an independent holder.

Where a party to a bill receives due notice of dishonour, he has after the receipt of such notice the same period of time for giving notice to antecedent parties that the holder has after the dishonour.

Where a notice of dishonour is duly addressed and posted, the sender is deemed to have given due notice of dishonour, notwithstanding any miscarriage by the post-office.

Delay in giving notice of dishonour is excused when the delay is caused by circumstances beyond the control of the party giving notice, and not imputable to his default, misconduct, or negligence; but when the reasonable cause of delay ceases to operate, the notice must be given with becoming diligence.

Noting is the memorandum of a notary or third party that a bill is dishonoured, and is resorted to as evidence that the bill has been duly presented and really dishonoured; but there is no obligation to resort to noting; it makes no difference if there be otherwise sufficient evidence of presentation and dishonour; but, if the holder thinks proper to employ a notary, the notary's fee is chargeable to the party who ultimately becomes liable for the bill. If a bill be noted at all, it must be on the day of dishonour.

Protesting applies more especially to foreign bills, and is essential to subsequent proceedings. It is an extension of the process of noting. It is a formal declaration by the holder of the bill, or by a notary public, that the bill has been refused acceptance or payment, and that the holder claims to recover, from all parties liable, the principal, interest, and expenses.

Where a bill or note is required to be protested within a specified time or before some further proceeding is taken, it is sufficient that the bill has been noted for protest before the expiration of the specified time on the taking of the proceeding, and the formal protest may be extended at any time thereafter as of the date of the noting.

Where a dishonoured bill or note is authorized or required to be protested, and the services of a notary cannot be obtained at the place where the bill is dishonoured, any householder or

substantial resident of the place may, in the presence of two witnesses, give a certificate, signed by them, attesting the dishonour of the bill, and the certificate will in all respects operate as if it were a formal protest of the bill. The manner of such a proceeding is shown in the following form of protest :—

Know all men, that I, A. B. [*householder*], of
in the county of _____, in the United Kingdom, at the
request of C. D., there being no notary public available, did on
the _____ day of _____, 188____, at _____, demand payment [or
acceptance] of the bill of exchange hereunder written, from E.
F., to which demand he made answer [state answer if any];
wherefore I now, in the presence of G. H. and J. K., do
protest the said bill of exchange. Signed, _____ A. B.

G. H. }
J. K. } Witnesses.

[The bill itself should be annexed, or a copy of the bill and all that is written thereon should be underwritten.]

Discharge of every successive holder of a bill accrues to him after he has parted with the instrument, unless he receives due notice of dishonour as before described ; but

The liability of every successive holder to every subsequent holder is unqualified if he receives such notice, always provided that there is full evidence of due presentment and dishonour ; on the other hand,

The liability of the acceptor of a bill is not extinguished by any neglect on the part of the drawer or holder. Such liability continues, whether the bill be duly presented or not, and whether he receives notice or not, any holder for value being entitled to recover from the acceptor, independently of presentation, notice, or anything of the kind ; but this does not apply to acceptance for honour.

An acceptor for honour engages that he will, on due presentment, pay the bill according to the tenor of his acceptance, if it is not paid by the drawer, provided it has been duly presented for payment, and protested for non-payment, and that he receives notice of all the facts ; so that it must be duly presented, dishonoured, protested, and presented for honour before the acceptor for honour can be held liable.

Lost bills involve some curious obligations. Where a bill has been lost before it is overdue, the person who was the holder of it may apply to the drawer to give him another bill of the same tenor, giving security to the drawer if required to indemnify him against all persons whatever, in case the bill

alleged to have been lost shall be found again. If the drawer on request as aforesaid refuses to give such duplicate, he may be compelled to do so.

Sets of Bills. Where a bill is drawn in a set, each part of the set being numbered and containing a reference to the other parts, the whole of the parts constitute one bill.

Where the holder of a set indorses two or more parts to different persons, he is liable on every such part, and every indorser subsequent to him is liable on the part he has himself indorsed, as if the said parts were separate bills.

Where two or more parts of a set are negotiated to different holders, in due course the holder whose title first accrues is as between such holders deemed the true owner of the bill; but any party upon whom devolves the duty of honouring one of a set on presentation is exonerated as regards the other members of the set, even though the one honoured was not entitled to priority.

The acceptance may be written on any part, and it must be written on one part only.

If the drawee accepts more than one part, and such accepted parts get into the hands of different holders in due course, he is liable on every such part as if it were a separate bill.

When the acceptor of a bill drawn in a set pays it without requiring the part bearing his acceptance to be delivered up to him, and that part at maturity is outstanding in the hands of a holder in due course, he is liable to the holder thereof; otherwise, when any one part of a bill drawn in a set is discharged by payment or otherwise, the whole bill is discharged.

Bill of Rights. The Convention Parliament which met after the flight of James II., after having declared the throne vacant and settled it on the Prince and Princess of Orange—the Princess of Denmark to succeed them in default of their issue—annexed to this settlement a *Declaration of Rights*, by which all the points which had recently been disputed between the king and the people were finally determined. The provisions of this instrument were in the first year of the next reign embodied in a statute termed the *Bill of Rights*, the third great charter of English liberty.

Bills of Sale. Deeds by which the property in personal chattels is transferred by sale in the way of mortgage from the owner to some other person, without the necessity of giving possession of the same to the purchaser. As a person can, by executing an instrument of this kind, secretly divest himself of

his property and yet appear to all the world as still the owner of it, and obtain credit on the strength of his apparent ownership, bills of sale have from early times afforded plentiful by means of fraud. This was the more especially so, as collusive bills of sale were very frequently made; so that if a creditor recovered judgment against his debtor and proceeded to levy execution, some third party stepped forward to prevent it, producing a bill of sale in his favour. It was accordingly enacted by 13 Eliz. c. 5, and made perpetual by 29 Eliz. c. 5, that every feoffment, gift, grant, alienation or conveyance of lands, tenements, hereditaments, goods and chattels, or any of them, by writing or otherwise, and all and every bond, suit, judgment, and execution fraudulently made to delay, hinder, or defraud creditors of their just and lawful actions, suits, debts, &c., shall be, as against that person whose actions, suits, &c., shall be in any wise disturbed, hindered, or defrauded, utterly void. By sec. 6 of the same Act it is provided, that the Act is not to extend to any estate or interest in lands, &c., goods or chattels, on good consideration and *bona fide*, lawfully conveyed to any person not having notice of the fraud. Under this statute, therefore, the question arises whether it is made on good consideration and *bona fide*. The principal test of *bona fides* is whether the bill of sale is actually intended to do that which it purports to do (that is, actually pass the property to the person in whose favour it is made for him to hold *adversely* to the maker), or whether it is made collusively simply to defraud a creditor. A bill of sale is not made fraudulently simply because the object of the maker is to prefer one creditor to another; in such case, however, it is liable to be avoided as a fraudulent preference in case the maker is within three months made bankrupt. Notwithstanding this statute, bills of sale continued to afford an easy means of defrauding creditors, and it was justly considered that a person should not be entitled to make a bill of sale, and by remaining in possession of the goods comprised in the same obtain credit on the strength of his apparent ownership, without some means being afforded to the outside world of ascertaining that such a bill of sale had been made. Acts were therefore passed in 1854 and 1866 which provided for the registration of bills of sale. Those Acts were superseded by the Bills of Sale Act, 1878, which, after expressly excluding from its provisions "any mortgage of any estate or interest in any land," and also expressly excluding water-wheels, fixed steam-engines, and their appurtenances, shafts, wheels, drums, and all fixed and loose

means of transmitting power, together with pipes for the conveyance of gas, steam, or water, expressly includes all personal property of a movable character, and also growing crops, trade machinery, and fixtures not expressly before excluded, and every mortgage or bill of sale upon any such personal property is subject to the provisions of the Act. Such provisions refer to formal bills of sale by deed, and equally to any other document having substantially the same effect by which responsibility has been sometimes evaded. Every such evasive document being classed as a bill of sale, every bill of sale, whether formal or informal, must be in accordance with the Act; and, by a subsequent provision, every bill of sale given later than Nov. 1, 1882, must be in the form hereafter prescribed.

By the Act of 1882 further requirements and restrictions came into force.

Every bill of sale made or given in consideration of any sum under £30 is void.

Debentures issued by any mortgage, loan, or other incorporated company, and secured upon the capital stock of such company, are expressly excluded from the provisions respecting bills of sale.

Every bill of sale given on or after Nov. 1, 1882, must be in accordance with the following form:—

This indenture made the day of between
 A. B. of of the one part, and C. D. of of the
 other part, witnesseth that in consideration of the sum of £
 now paid to A. B. by C. D., the receipt of which the said A. B.
 hereby acknowledges [*or whatever else the consideration may be*],
 he the said A. B. doth hereby assign unto C. D., his executors,
 administrators, and assigns, all and singular the several chattels
 and things specifically described in the schedule hereto annexed,
 by way of security for the payment of the sum of £ and
 interest thereon at the rate of per cent. per annum [*or what-
 ever else may be the rate*]. And the said A. B. doth further agree
 and declare that he will duly pay to the said C. D. the principal
 sum aforesaid, together with the interest then due, by equal
 payments of £ on the day of
 [*or whatever else may be the stipulated times or time of payments*].
 And the said A. B. doth also agree with the said C. D. that he
 will [*here insert terms as to insurance, payment of rent, or otherwise,
 which the parties may agree to for the maintenance or defeasance of
 the security*]. Provided always, that the chattels hereby assigned

shall not be liable to seizure or to be taken possession of by the said C. D. for any cause other than those specified in section seven of the "Bills of Sale Act," 1878, "Amendment Act," 1882. In witness, &c. Signed and sealed by the said A. B. in the presence of me, E. F. [*add witness's name, address, and description*].

The Act provides that every bill of sale shall be attested by one or more credible witness or witnesses, not being a party or parties thereto. Within seven days afterwards the bill of sale, including all particulars of the persons and the property concerned, must be registered with a master of the Supreme Court, or some other person for the time being authorized to act as a registrar thereof, and the registration must be accompanied by affidavit and other formalities prescribed by the Act. If a bill of sale continues so long in force, it must be re-registered not later than five years after the first registration and within every five years afterwards. Compliance with the foregoing requirements renders a genuine bill of sale valid against a bankruptcy or a judgment; but not against distress for rent, taxes, or rates. Failing any of the said requirements, a bill of sale is void and worthless.

The fees payable are :—

On filing a bill of sale 2s.

On filing the affidavit thereof 2s.

On re-registering 5s.

Transfer or assignment of a bill of sale from one holder to another does not render re-registration necessary.

Any person is entitled, during office hours, to search the register and to inspect any bill of sale on payment of one shilling, or other fee prescribed, and to make extracts of any registered document on payment of the further sum of one shilling.

When any period prescribed by the Act ends on a Sunday or other closed day, registration or other formality may be effected on the next day upon which the office is open.

When two or more bills of sale have reference to the same property, the one that is first *registered* has priority, irrespective of the *date* of the execution.

Every bill of sale must have annexed to, or written on, an inventory of the property involved, and the omission of such inventory is fatal to the security, and the security cannot be enforced upon any property that did not really belong to the

granter at the time of the grant; but this is qualified so as to make exceptions in favour of the following classes of property:—

Any growing crops separately assigned or charged where such crops were actually growing at the time when the bill of sale was executed.

Any fixtures separately assigned or charged, and any plant, or trade machinery, where such fixtures, plant, or trade machinery are used in, attached to, or brought upon any land, farm factory, workshop, shop, house, warehouse, or other place in substitution for any of the like fixtures, plant, or trade machinery, specifically described in the schedule to such bill of sale.

Personal chattels assigned under a bill of sale are not liable to be seized or taken possession of by the grantee for any other than the following causes:

If the granter shall make default in payment of the sum or sums of money thereby secured at the time therein provided for payment, or in the performance of any covenant or agreement contained in the bill of sale and necessary for maintaining the security;

If the granter become a bankrupt, or suffer the said goods or any of them to be distrained for rent, rates, or taxes;

If the granter do fraudulently either remove or suffer the said goods, or any of them, to be removed from the premises;

If the granter shall not, without reasonable excuse, upon demand in writing by the grantee, produce to him his last receipts for rent, rates, and taxes;

If execution shall have been levied against the goods of the granter under any judgment at law.

In case of seizure for any of the foregoing causes the granter is at liberty within five days to apply to a judge of the High Court, who has power to restrain the grantee if it be proved that the claims arising out of the seizure are fully satisfied.

If a bill of sale is executed out of England, the time for registration is extended to seven clear days after the time at which it would in the ordinary course of post arrive in England if posted immediately after the execution thereof.

All personal chattels seized, or of which possession be taken under or by virtue of any bill of sale, must be suffered to remain on the premises where they are so seized or taken possession of, and must not be removed or sold until after the expiration of five clear days from the day on which they are seized or taken possession of.

Billeting of Soldiers in private houses was made illegal by

the Petition of Right. Provision is now made by the annual Mutiny Act by which troops are liable to be billeted among the several innkeepers, victuallers, wine merchants, wine and beer retailers and licensed grocers, wherever a body of soldiers halts on the march, a custom in a great measure superseded by the conveyance of military bodies by railway.

Bills of Mortality. Returns of the deaths which occur within a certain district. The bills were commenced in 1592, when the plague was very busy with its ravages, and the object of them was to quiet exaggerated rumours. Since 1603, they have been continued uninterruptedly until the present time. In 1605 the parishes comprised within the bills of mortality included the ninety-seven parishes within the walls of the city of London, sixteen parishes without the walls, and six contiguous parishes in Middlesex and Surrey; since that period, the city of Westminster has been included and several other metropolitan parishes.

Birds. See "Wild Birds."

Births. Every person (whether the mother or not) who endeavours to conceal the birth of a child by secret disposition of the dead body, whether such child died before, at, or after its birth, is liable to imprisonment with or without hard labour for a term not exceeding two years. If any person is tried for the murder of an infant and acquitted, it is competent for the jury to record a verdict of guilty of concealment of birth.

Registration of Births. Unless there is concealment of a birth, there is no obligation to give notice of it or to register it, but it is the duty of every registrar to inquire as to births and to apply to the parties responsible for the custody of infants as to the particulars of birth; and it is enacted that such parties shall be required to give information when applied for, but there is no penalty for refusing the information though there is an inducement to give it early; thus, any time within forty-two days after the birth the responsible persons are entitled to effect registration free of any charge. After that time there is a fee payable, and after three months registration cannot be effected except after a solemn declaration made in the presence of the superintendent registrar. This continues until twelve months after birth, later than which time it is unlawful to register the birth without the special permission of the registrar-general. The penalty for infringement is £10. It is also unlawful to bury an infant without the birth is registered.

The registration of births is provided for by the Acts 6 & 7

Will. IV. c. 86; 1 Vic. c. 32; 3 & 4 Vic. c. 92; 21 Vic. c. 25; 37 & 38 Vic. c. 88. Further provisions are contained in 39 & 40 Vic. c. 32, in relation to Friendly Societies; 44 & 45 Vic. c. 2 in relation to burials; and 44 & 45 Vic. c. 62. There were no means provided for the registration of births prior to 6 & 7 Will. IV. (1836). Previously to that time the only records of births were derived from the entries of baptisms.

Bishop. An archbishop or bishop is constituted by *election*, *confirmation*, *consecration*, and *installation*. The election of an archbishop or bishop is by the chapter of his cathedral church, by virtue of a *congé d'elire* or licence from the Crown to elect, which is not only a licence but a compulsory mandate.

After election and confirmation the bishop may exercise all spiritual jurisdiction; but he is not yet completely bishop until consecration.

A bishop is the chief of the clergy within a diocese; but he is subordinate to the archbishop of the province, to whom he is sworn to pay due obedience. Bishops are styled *suffragan* (a word signifying deputy) in respect of their relation to the archbishop of their province. The dignity of a bishop is usually called a *see* (*sedes*) and his church a cathedral.

The archbishops, and the bishops of London, Durham, and Winchester, are invariably peers, and are entitled as such to sit in the House of Lords. Formerly, all bishops had the like political status, but since 1846, when the prior number of bishops was increased, the right of sitting in the House of Lords has been limited to the twenty senior bishops, those newly appointed being barred the right until they acquire the position of seniority by rotation.

A bishopric may become void by death, deprivation for any very gross and notorious crime, and also by resignation.

Black Act—9 Geo. I. c. 22 (1722)—so called because it created new felonies and rendered the inhabitants of the hundred where any such felony occurred liable for damages to the parties suffering from such felonies. It continued in force for more than a hundred years, not being repealed until 7 & 8 Geo. IV. c. 27 (1826-7). It much resembled the Irish Crimes Act of 1832.

Black Book of the Court of Exchequer, for the registry of treaties, charters, and other muniments.

Black Cap is the covering of the head of a judge while pronouncing sentence of death.

Black Rod, Gentleman Usher of the, an officer belonging

to the Garter, and chief usher to the sovereign. It is his duty to attend the House of Peers during the sitting of Parliament, to regulate the ceremonial forms of the house, and to carry messages to the Commons. He has no fixed salary, but derives his emoluments from fees regulated by the house. He has also the appointment of the door-keepers, messengers, and other servants of the house.

Blackstone, Sir William, is celebrated as the writer of the first systematic commentaries upon the law of England. He was born July 10, 1723; published his four volumes of commentaries 1765-9; judge of the Court of Common Pleas 1770-80; died February 14, 1780.

Blockade, in international law, is the means in time of war of rendering intercourse with an enemy's port unlawful on the part of neutrals; and it is carried into effect by an armed force (ships of war) which blocks up, and bars export or import to and from the place blockaded. This right is described by all writers on the law of nations as clear and incontrovertible, having its origin in the soundest principles of maritime jurisprudence, sanctioned by the practice of the best times.

To be valid in law, so as to bind neutrals, a blockade must be accompanied by actual investment of the place, and must be more or less rigorous, so as to cut off all access of vessels to that interdicted place. It must also be shown that the neutrals have knowledge, or may be presumed to know of the blockade. This knowledge may arise in two ways—either by a public or formal notification, or by the notoriety of the fact. Yet it is at all times most convenient that the blockade should be declared in a public and distinct manner, and the effect of such a notification to a neutral government is clearly to include all the individuals subject to it. Breach of blockade may be by either going into, or coming out from, the blockaded port. The breach of blockade generally subjects the ship and cargo to confiscation; but before this can be done, the ship and cargo must be taken into a prize court and condemned. The cargo will not in such case be condemned, if it appear that the owner (not being also owner of the ship) was not cognizant of the intended violation. On the proclamation of peace, or from any political or belligerent cause, the continuance of the blockade may cease to be necessary, and the blockade is then said to be raised.

Board of Control was the name by which was formerly designated the department of the Government for the control of the directors of the East India Company. It was first instituted

in 1784, and upon the abolition of the Company in 1858 the Board was merged into the India Department, with a cabinet minister for its secretary of state.

Board of Green Cloth consists of the lord steward, treasurer, and council of officers of the Crown household, said to have got the designation from the green cloth habitually covering the table at which the members meet.

Board of Trade. This was formerly limited to the control of foreign property of the Crown and the supervision of merchant shipping, but the jurisdiction has been extended to railways, bankruptcy, and other matters of very wide scope, and of a very indefinite character, including boiler explosions.

Boats. See "Canal Boats."

Bocland. Lands were divided under the Anglo-Saxons into bocland and folkland. The former was held in full propriety, and might be conveyed by boc or written grant; the latter was occupied by the common people, and was subject to many burthens from which the possessors of bocland were exempt. They were bound to assist in the reparation of royal villis and other public works. They were liable to have travellers and others quartered on them for subsistence. They were required to give hospitality to kings and great men as they travelled through the country, to furnish them with carriages and so forth. Bocland was liable to none of these enactings. It was released from all services to the public, except those comprised in the term *trinoda necessitas*—the duty of repairing castles and bridges, and of contributing to the defence of the country.

Boiler Explosions. By an Act of 1882 (45 & 46 Vic. c. 22) provision is made for inquiries with regard to boiler explosions. On receiving notice of a boiler explosion, the Board of Trade may, if it thinks fit, appoint one or more competent and independent engineer or engineers, practically conversant with the manufacture and working of boilers, to make a preliminary inquiry with regard to the explosion, and the persons so appointed have full powers accordingly. If it appears to the Board of Trade, either upon or without such preliminary inquiry, that a formal investigation of the causes and circumstances attending the explosion is expedient, the Board of Trade may direct a formal investigation to be held; and such investigation is subject to the following provisions:—

The investigation must be made at or near the place of the explosion, by a court consisting of not less than two commissioners appointed by the Board of Trade, of whom one at least

shall be a competent and practical engineer, specially conversant with the manufacture and working of steam boilers, and one of a competent lawyer. The court must be presided over by one of the commissioners, the selection being made by the Board of Trade.

Such formal investigation must be in open court, in such manner and under such conditions as the commissioners may think most effectual for ascertaining the causes and circumstances of the explosion, and for enabling them to make the report required.

Such court has all the powers of a bench of magistrates, in addition to which—

The court or any one appointed by it may enter and inspect any place or building, the entry or inspection whereof appears to the court requisite for the purpose ;

It may require the attendance by summons of all such persons as it thinks fit to call before it and examine for the said purpose, and may for such purpose require answers or returns to such inquiries as it thinks fit to make ;

It may require and enforce the production of all books, papers, and documents which it considers important for the purpose ;

It may administer an oath, and require any person examined to make and sign a declaration of the truth of the statements made by him in his examination ;

Every person so summoned, not being the owner or user of the boiler, or in the service or employment of the owner or user, or in any way connected with the working or management of the boiler, must be allowed by the Board of Trade such expenses as would be allowed to a witness attending on subpoena before a court of record.

The court, after such formal investigation, is required to present a full and clear report to the Board of Trade, stating the causes of the explosion and all the circumstances attending the same, with the evidence, and the Board of Trade is required to cause any such report to be made public.

The Act does not apply to any boiler used exclusively for domestic purposes, nor to any boiler used in the service of the Crown, nor to any boiler on board a steamship having a certificate from the Board of Trade, nor to any boiler explosion into which an inquiry may be held under the provisions of the Coal Mines' Regulation Act, 1872, and the Metalliferous Mines' Regulation Act, 1872 ; otherwise, on the occurrence of an explosion from any boiler not before excepted, notice thereof must, within

twenty-four hours thereafter, be sent to the Board of Trade by the owner or user, or by the person acting on behalf of the owner or user. The notice must state the precise locality as well as the day and hour of the explosion, the number of persons injured or killed, in addition to the purposes for which the boiler was used, and generally, the part of the boiler that failed, and the extent of the failure; and such other particulars as the Board of Trade may from time to time prescribe. For default in this notice the penalty is £20.

Bona Vacantia is property without any known owner, which therefore devolves upon the Crown.

Bond is the name of a deed poll, whereby the executor thereof binds himself to do or refrain from doing something expressed, or to forfeit a sum of money in the event of failing to abide by the bond, or to perform any duty it prescribes.

Bond Note is the statement of particulars of goods about to be exported, which the exporter is required to deliver to the officer of customs, in accordance with the rules and formalities from time to time prescribed.

Bonded Goods are imported or excisable goods upon which the duty has not been paid, which goods are kept in bond by the government officials until the duty is paid. When the duty is paid and the goods are released, they are said to be "cleared" out of bond.

Borough. In former times a borough was a town possessing a charter of incorporation, generally granted by the caprice or whim of the king, or otherwise in consideration of some service that had been rendered by the town to the Crown. Such is substantially the origin of all boroughs that were recognized as such prior to 1835. In that year an Act was passed (5 & 6 Will. IV. c. 76) which reformed all then existing corporate boroughs, and under the provisions of which all boroughs incorporated at a later date have been founded, subject to very numerous Acts indirectly or incidentally bearing upon the subject. See also "Parliament" and "Municipal Corporation."

Borough Constables. Section 195 of the Municipal Corporations Act is expressly legislated upon by the Borough Constables Act, 1883.

Borough, English. See "Burgage Tenure."

Borough Fund. A fund expressly defined by the Municipal Corporations Act (5 & 6 Will. IV. c. 76), by which it is declared that the rents and profits of all hereditaments, and the interest, dividends, and annual proceeds of all moneys, dues, chattels,

and valuable securities belonging or payable to any body corporate named in conjunction with a borough in the schedules of the Act, or to any member or officer thereof, in his corporate capacity, and every fine or penalty for every offence against this Act (the application of which has not been already provided for), shall be paid to the treasurer of such borough; and all the monies which the treasurer shall so receive shall be carried by him to the account of a fund, to be called "The Borough Fund;" and such fund, subject to certain payments and deductions, shall be applied towards the salary of the mayor, and of the recorder, and of the police magistrate—where there is a recorder or police magistrate—and of the respective salaries of the town-clerk and treasurer, and of every other officer whom the council shall appoint, and other borough expenses. All borough authorities are under obligation to make annual returns of their income and expenditure, the regulations for which were supplemented by an Act of 1877 (40 & 41 Vic. c. 66).

Borough Justices were first created in the time of Charles I. Under the Municipal Corporations Act these justices consist of the mayor during his year of office, and for one year after it determines; the recorder *ex officio*: and such persons as the Crown may appoint by commission. Their duties cannot be delegated, and before acting they must make the same declaration and take the same oaths as the recorder does on entering office. (See "Justice of the Peace.")

Borough Rate is a rate raised and levied within a borough by order of its council. By sec. 92 of the Municipal Corporations Act (5 & 6 Will. IV. c. 76), where there is a deficiency of the borough fund, the borough council is authorized and required from time to time to order a borough rate in the nature of a county rate (see title "County Rate") to be made within their borough, for which purpose the council shall have all the powers of county justices. As to boroughs not within the Municipal Corporations Act, the levying and application of borough rates in them is regulated by 17 & 18 Vic. c. 71, by sec. 1 of which it is enacted that the borough justices may make a borough rate in the nature of a county rate for all the purposes for which a borough rate may be levied, such borough justices having also the same powers as county justices. The council of a borough cannot make a retrospective rate. The Municipal Corporations Act directs that all sums levied in pursuance of a borough rate shall be paid over to account of the borough fund. Where parties consider themselves aggrieved by a borough rate, they

may appeal to the recorder at the next Quarter Sessions for the borough in which such rate has been made ; or, if there be no recorder, to the next county Quarter Sessions.

Borough Sessions. Courts established in boroughs under the Municipal Corporations Act (5 & 6 Will. IV. c. 76). They are held by the recorders of the respective boroughs once a quarter, or oftener if they think fit, and at times to be fixed by them. The jurisdiction is over such offences as are cognizable by the Quarter Sessions for the county. The jurisdiction of the latter sessions extends to all boroughs that may not have petitioned for a separate court by virtue of section 103 of the Municipal Corporations Act.

Bottomry is in the nature of a mortgage of a ship subject to a premium in lieu of interest payable to the lender of the money, which is supposed to be upon the keel or bottom of the ship. The rule in bottomry is, that if the ship be lost before her return to a stated port, the money of the mortgage is lost ; but if the ship so return, the ship is his unless it be redeemed by payment of principal and premium.

Bought Note is the recognized name of the memorandum delivered by a stock-broker to the purchaser of stock in evidence of the bargain, the acceptance of which binds the purchaser. Sold Note also describes the like memorandum delivered by the broker to the vendor for whom he is acting, the acceptance of which binds the vendor.

Bound Bailiff is a sheriff's officer who has entered into a bond to ensure the due execution of his office.

Bounty. A sum of money given to encourage men to enlist in the army. (See "Enlistment.")

Trade Bounties were in former times given for the supposed encouragement of trade. Thus a bounty was given on the export of corn, with a view to encourage agriculture ; on the tonnage of vessels employed in the herring and whale fisheries ; on the importation of the materials of manufactures ; on the exportation of linen from Ireland, &c. The system was systematically opposed by Adam Smith, and bounties have long since been abolished.

Bounty, Queen Anne's. See title "Queen Anne's Bounty."

Brawling is interference or noisy or riotous conduct amounting to a disturbance of decorum in a church or churchyard, especially during the progress of any service therein.

Breaking Bulk is the wilful opening of a package of goods

and the abstraction of a portion of the contents. In ordinary commercial transactions it arises when a person disposes of a portion of goods supplied to him and refuses to adopt the remainder. It was formally held that breaking bulk committed the appropriator of a portion to the whole package, but that has been much qualified of late years. It depends upon the weight of evidence as to whether the goods are as ordered, and whether the user of a portion has thereby practically admitted their sufficiency, taken in conjunction with all the circumstances and conduct of the parties.

The term is also used to describe the fraudulent abstraction of goods from the package of another, which is a form of larceny subject to special punishment.

Bridges. Outside municipal boundaries, and sometimes within them, the maintenance of bridges devolves upon the county authorities at the expense of the county rates. Much difficulty having arisen in connection with raising sufficient funds in certain cases for the provision and maintenance of county bridges, an Act was passed in 1880 (43 & 44 Vic. c. 5) to facilitate the borrowing of money for such purposes, which provides that where the county authorities see fit to make a contribution towards the cost of a bridge, they may borrow on mortgage of the county rate all or any part of the amount of such contribution, subject to restrictions defined in that and prior Acts.

British Museum. This institution is subject to special laws under various Acts of Parliament. Its foundations were laid in 1701, when Cotton's Library was acquired, which formed the nucleus for subsequent development. Incorporation under trustees, with power to acquire lands, &c., was effected in 1753 (26 Geo. II. c. 22). Various subsequent Acts confirm and extend the original powers of the trustees, one of them making an exception with reference to the Charitable Trusts Act. One of the most important powers is that requiring every publisher to deliver copies of all his publications for addition to the Museum Library. By an Act of 1878 (41 & 42 Vic. c. 55) the trustees are empowered to transfer the collections in zoology, geology, and palæontology, mineralogy and botany, to the new museum at South Kensington. The same Act authorizes the trustees to transfer certain pictures to the National Gallery, and certain duplicate works to any other public institution.

Brief is derived from abridgment, and is the statement of the case prepared by a solicitor for delivery to the barrister who

is retained as counsel in a case, and from which the barrister derives the information necessary for him to conduct the case.

Broad Arrow is the mark upon Government stores, signifying that they belong to the Crown.

Broker is the bargainer or go-between who conducts business for others in consideration of a commission called brokerage. It is the duty of a broker to adhere strictly to his position. If he is employed by the vendor and credits him with less than the price obtained, or is employed by the purchaser and debits him with more than is paid to the vendor, such broker is liable to make good the deficiency, and to forego his commission and all expenses for breach of trust. If a broker secretly becomes the purchaser without the knowledge of his client the vendor, the purchase is void, and the vendor, upon discovery, can retire from the bargain or receive the goods at his pleasure.

Budget, a little bag or sack. The word is used to designate the statement respecting the financial position of the British nation which the Chancellor of the Exchequer lays before the House of Commons in each session of Parliament.

Buildings. The law for the regulation of buildings is mainly based upon the Towns Improvement Clauses Act, 1847; the Public Health Acts of 1874, 1875, 1876, c. 31 & 75; 1878, c. 16 & 25; 1879, c. 6, 31 & 54, and various Acts for the regulation of the metropolis, which were supplemented by an Act of 1882 (45 Vic. c. 41) to confer further powers upon the Metropolitan Board of Works with respect to streets and buildings in the metropolis, including the prevention of obstructions, provisions as to new streets, the laying out of streets for foot traffic, the regulation of lines of buildings. Power is also given for the removal of iron and other temporary buildings, and wooden structures must not be erected without special licence. All private buildings, upon conversion into public buildings, come under special regulations. Great powers are conferred as to dangerous and neglected structures. There is also a section for the determining of disputes between adjoining owners.

Building Societies are for the most part founded upon the Act of 1874, 37 & 38 Vic. c. 42, which superseded all previous Acts on the same subject. It limits the liability of members; authorizes the borrowing of money, and prescribes how it is to be done; requires registration of rules; provides for change of name; enjoins security to be obtained from officers; provides for investment of surplus funds; exempts from stamp duty; makes minors eligible as members; and goes into various details

of management. The Acts 38 Vic. c. 9 and 40 & 41 Vic. c. 68 refer to societies that existed before 1874, and to the change of office of any society.

Burials. Every person who publicly officiates at a burial without first ascertaining whether registration of the death is effected or provided for, is subject to heavy penalties. By an Act of 1879 (42 & 43 Vic. c. 31) any local authority is entitled to acquire or construct a cemetery either wholly or partly within its district, and may accept donations of land or money for such purpose. There are also additional powers for the provision of mortuaries. The Burial Laws Amendment Act of 1880 (43 & 44 Vic. c. 41) was mainly for the purpose of allowing burials in churchyards without the rites of the Church of England, subject to previous notice being given to the clergyman. Such a burial may be without a religious service, or with such Christian and orderly service at the grave as the person in charge of the funeral may think fit. During such burial all persons are entitled to have free access to the churchyard. The Act also gives a new liberty to use the burial service of the Church of England in unconsecrated ground. By an Act of 1881 (44 & 45 Vic. c. 34) the owner of any churchyard, cemetery, or burial-ground within the metropolis, and closed for burials, may convey the same to the local authority for the purpose of making a public open space.

Bull is the name given to a decree of the Pope. The term is also used on the Stock Exchange to describe one who "buys for the rise"—that is, he buys a particular kind of stock in the expectation that the price will go up, whereby he can sell again at a profit. A bear is the reverse of a bull. He "sells for the fall" in the expectation that he may eventually buy similar stock at a lower price.

Burden of Proof is when something doubtful is asserted by a person upon whom the obligation of proving the truth of the assertion devolves.

Burgage Tenure. A form of tenure both in England and Scotland applicable to the property connected with the old municipal corporations and their privileges. The term is of less practical importance in the English than in the Scottish system, where it still holds an important place in the practice of conveyancing, real property being in that country generally divided into feudal-holding and burgage-holding. It is usual to speak of the English burgage-tenure as a relic of Saxon freedom resisting the shock of the Norman conquest and its feudalism ;

but it is perhaps more correct to describe it as a local feature of that general exemption from feudality enjoyed by the municipia as a relic of their ancient Roman constitution. The reason for the system preserving its specifically distinct form in Scottish conveyancing is because burgage-holding was an exception to the system of subinfeudation which remained prevalent in Scotland after it was suppressed in England. While in England burgage-tenure was considered a species of socage to distinguish it from the military-holding, in Scotland it was strictly a military-holding, by the service of watching and warding for the defence of the burgh. In England the franchises enjoyed by burgesses, freemen, and other consuetudinary constituencies, in burghs were dependent on the character of the burgage-tenure. Tenure in burgage in England is described by Glanvil to be but tenure in socage; and it is where the king or other person is lord of an ancient borough, in which the tenements are held by a rent certain. It is a kind of town socage, as common socage is usually of a rural nature. (See "Socage.") Many of these tenements so held in ancient burgage are subject to a great variety of customs, the principal and most remarkable of which is that called Borough-English, by which the youngest son and not the eldest succeeds to the burgage tenement on the death of the father.

Burgess. A term generally applied to a person holding some of the privileges conferred by the old municipal corporations. It came into peculiar use in England as the term applied to the persons represented in parliament by the members for boroughs.

Burglary is breaking into a house by night with intent to commit a felony, as distinguished from housebreaking, which is breaking in during the day.

Burial. In England, burial in some part of the parish churchyard is a common law right, without even paying for breaking the soil; and that right will be enforced by the superior courts of common law by writ of mandamus. But the body of a parishioner cannot be interred in a particular part of the churchyard without the sanction of the incumbent, unless a faculty be obtained from the bishop for that purpose. By the canons of the Church of England, the clergyman cannot refuse or delay to bury any corpse that is brought to the church or churchyard; it is, however, unlawful for him to bury any one unless a registrar's certificate be produced showing how such person came by his death. (See title "Registration.") The 4 Geo. IV. c. 52 abolished the practice of burying the bodies of

persons who had committed suicide at the cross-roads, and directs that their burial shall take place, without any marks of ignominy, between the hours of nine and twelve at night in the churchyard. (See also "Suicides.")

Burial Acts. These are the 15 & 16 Vic. c. 85 for London; the 16 & 17 Vic. c. 134, the 17 & 18 Vic. c. 87, the 18 & 19 Vic. c. 79 and 128, for places in England beyond the limits of the metropolis. All these Acts are amended by 20 & 21 Vic. c. 81, and 22 Vic. c. 1. The Acts provide for the appointment, in certain parishes in and near large towns, of burial boards, whose duty it is to make the necessary arrangements for laying out and maintaining some cemetery for the burial of the parishioners. For this purpose several parishes may combine to have one burial place for their joint use. If there be in the neighbourhood of the parish some convenient cemetery, the burial board may, instead of laying out a cemetery of its own or in conjunction with the neighbouring parishes, make the necessary arrangements with the proprietors of such cemetery. The Acts provide for the cessation, except in certain cases, of burials in parishes within or in the neighbourhood of large towns. The Burial Acts were further amended by 38 & 39 Vic. c. 11; 42 & 43 Vic. c. 31; and 43 & 44 Vic. c. 34.

Burking is murder by suffocation, so called because it was perpetrated by a notorious criminal named Burke, who systematically sold the dead bodies of his victims to the medical profession for dissection. He was convicted at Edinburgh Dec. 24, 1828, and hanged Jan. 28, 1829.

Bylaws—often erroneously used as a compound word, Byelaws—are the laws, regulations, and constitutions of corporations for the government of their members. They are binding, unless contrary to law, or unreasonable and against the common benefit. By the Municipal Corporations Act (5 & 6 Will. IV. c. 76), the town council have express power to make such bylaws as to them shall seem meet for prevention and suppression of any nuisances not already made punishable in a summary manner, and to inflict a fine in case of their breach not exceeding £5. Railway companies have also power to make bylaws to affect persons travelling on their lines, but they have no force unless allowed by the Board of Trade.

Cabal. A name given to a ministry in the reign of Charles II., consisting of Clifford, Ashley, Buckingham, Arlington, and Lauderdale. The initials of these five names formed the word "cabal." (See Hallam's "Constitutional History," vol. ii. p. 374.)

Cab. See "Hackney Carriage."

Cabinet Council. "From an early period the kings of England had been assisted by a Privy Council, to which the law assigned many important functions and duties. During several centuries this body deliberated on the gravest and most delicate affairs. But by degrees its character changed. It became too large for despatch and secrecy. The rank of Privy Councillor was often bestowed as an honorary distinction on persons to whom nothing was ever confided, and whose opinion was never asked. The sovereign, on the most important occasions, resorted for advice to a small knot of leading ministers. The advantages and disadvantages of this course was early pointed out by Bacon, with his usual judgment and sagacity: but it was not till after the Restoration that the interior council began to attract general notice. During many years, old-fashioned politicians continued to regard the Cabinet as an unconstitutional and dangerous board. Nevertheless, it constantly became more and more important. It at length drew to itself the chief executive power, and has now been regarded during several generations as an essential part of our polity. Yet, strange to say, it still continues to be altogether unknown to the law; the names of the noblemen and gentlemen who compose it are never officially announced to the public; no record is kept of its meetings and resolutions, nor has its existence ever been recognized by any Act of Parliament" (Lord Macaulay, "History of England," vol. i. p. 219). Each member of the Cabinet is usually invested with one of the principal offices of state, among which are the following: those of the Lord High Chancellor; of the First Lord of the Treasury; of the Lord President of the Council; of the Lord Privy Seal; of the First Lord of the Admiralty; of the principal Secretaries of State, viz., the Secretary for the Home Department, for Foreign Affairs, for the Colonies, for the War Department; and for India, and of the Chancellor of the Exchequer.

Cairns Act. This Act, 1858, is so called because it was promoted by Lord Cairns. It empowered the Court of Chancery to award damages in certain events, and to order certain issues to be tried by juries.

Calendar of Prisoners is the name given to the list of the cases for trial at Quarter Sessions or Assizes, giving the names of the prisoners and the crimes for which they are to be tried, with blank spaces left for the verdicts and sentences.

Call Day, so named because it is that on which law

students are called to the bar. It is usually the sixteenth day of each term.

Call of the House is the reading of the names of the members of either House of Parliament, after a resolution of such house that there shall be such a call. On such occasions, the attendance of every member is compulsory, and non-attendance subjects the absent member to fine and imprisonment at option of the House.

Calling the Jury. This process is resorted to at *nisi prius*. The names of all the jurors summoned are put in a box, from which they are individually drawn presumably by chance, and the twelve first names drawn determine which men are to constitute the jury, each one drawn being required and entitled to serve on the case unless successfully challenged as disqualified.

Calling the Plaintiff is a formality resorted to before recording a non-suit against a plaintiff who is not present by himself or representative.

Calls on Contributories are requisitions upon persons liable to contribute to the assets of a company in respect of shares not paid up, or otherwise where the liability is not expressly limited.

Calvin's Case is the precedent upon which it is settled that a person born in Scotland is not an alien in England.

Cambist is another name for a bill-broker.

Campbell's Acts. See "Lord Campbell's Acts."

Canal Boats. By an Act of 1877 (40 & 41 Vic. c. 60) the registration of canal boats is rendered compulsory when they are used as dwellings, and they are hence subject to special regulations. The Local Government Board has power to make bylaws on the subject, and to employ inspectors to enforce the bylaws, especially with reference to infectious disease and the number of persons allowed to live in a boat's cabin. Children of parents who live on boats are rendered subject to the Education Acts, with a view to which power is conferred upon canal companies to establish schools.

Canon. See "Dean and Chapter."

Canon Law. The canon law, properly so called, denotes the ecclesiastical law sanctioned by the Church of Rome. The canon law is founded principally on the civil law, and so interwoven with it in its many branches, that there is no understanding the canon law rightly without being well versed in the civil law ; wherefore a knowledge of the latter is also necessary for the despatch of causes of ecclesiastical cognizance.

Canonical Obedience. That duty which a clergyman owes to the bishop who ordained him, the bishop in whose diocese he is benefited, and the archbishop of such bishop.

Canons of the Protestant Church. Certain ordinances enacted by the clergy in 1603, but never confirmed in parliament. It has been solemnly adjudged upon the principles of law and the constitution, that where they are not merely declaratory of the ancient canon law, but are introductory of new regulations, they do not bind the laity, whatever regard the clergy may think proper to pay them.

Canvassers. By section 11 of 30 & 31 Vic. c. 102 it is provided, that "no elector who within six months before or during any election for any county or borough shall have been retained, hired, or employed for all or any of the purposes of the election, for reward by or on behalf of any candidate at such election as agent, canvasser, clerk, messenger, or in any other like employment, shall be entitled to vote at such election, and if he shall so vote he shall be guilty of a misdemeanour."

Capias. The writ of *capias* (which is a writ directed to the sheriff ordering him to take and keep in custody a particular person) is, as a means of commencing an action at common law, altogether abolished, and a new writ, called a "*capias* or *mesne process*," was introduced by 1 & 2 Vic. c. 110, sec. 3, which limited the application of the writ to cases where the cause of action amounts to £20 or upwards and the defendant is about to leave England. By the 32 & 33 Vic. c. 62, it was enacted that a person shall not in future be arrested on *mesne process* in any action. Nevertheless, where plaintiff has good cause of action against the defendant to the amount of £50 or upwards, and the defendant is about to quit England and his absence will materially prejudice the plaintiff in the prosecution of his action, the judge may order the defendant to be arrested, unless or until security be found.

Capias ad audiendum judicium is where a defendant is found guilty of misdemeanour in his absence, calling upon him to appear for judgment.

Capias ad respondendum refers to a defendant who has absconded to avoid a civil action. He was formerly liable to arrest subject to bail.

Capias ad satisfaciendum, very familiarly known as a "*Ca Sa*" (*Ka Sa*), is a writ of execution upon the body of a person in respect of a judgment exceeding £20. Since the limitation of imprisonment for debt it is extremely rare, but is still applicable in some extreme cases.

Capita. When an intestate's estate is distributed to persons who are next in succession to the deceased, for the time being they are said to receive *per capita*, or in their own right, and not through or in right of any one else.

Capita, Tenants in. From the time of the Conquest the land of this country has always been holden of some superior, the king being the superior lord over all. When the tenure was of the sovereign immediately, it was said to be *in capita*, or in chief. This, however, was of two kinds—*ut de honore* (where the land was held of the king as proprietor of some honour, castle, or manor), or *ut de corona* (where it was held of him in right of the Crown itself); and it is to the latter kind that the term of tenure *in capita* was more especially applied.

Capital Punishment. By the Act of 1868 (31 Vic. c. 24), persons who are sentenced to death must be executed within prison walls, with certain formalities prescribed, and not in public.

Caption is the return of any commission when signed by the commissioners. The caption of an indictment is the preamble.

Carriers are under more stringent legal obligations than any other class of the community. The law recognizes two kinds of carriers, voluntary carriers and common carriers.

Voluntary Carriers. A voluntary carrier is one who undertakes to convey out of friendship and without reward; or, otherwise, one who undertakes to carry for one person only. A voluntary carrier carries at his own option—that is, he is only bound to carry what he likes, or what he expressly undertakes to carry; but, whether he is paid for his services or not he is responsible for the loss or injury of what he has undertaken to carry, if such loss or injury result from his neglect, unless the owner has expressly absolved such carrier from responsibility. This applies more especially to carmen and jobbers who are hired for carrying purposes, but it equally applies to any one who volunteers to take home, say, a borrowed umbrella. If he loses it, or fails to deliver it through his own neglect or inadvertence, he is responsible to the person for whom he undertook to carry it; but if it is taken from him by force, or he is deprived of the power of delivery from a cause beyond his own control, he is exonerated.

Common Carriers. A common carrier is one who plies as a carrier at stated times, or in a regular course of business. The owner of the meanest barrow or cart who plies to and fro and the most opulent railway company are equally common carriers, and the observation applies to all of intermediate importance,

who put themselves forward to ostensibly carry for all comers. Every common carrier is at liberty to prescribe how and where and when he undertakes to carry. He may limit himself to any specified weight or bulk, or class or classes of goods. He may make any conditions that are reasonable as to how and under what circumstances he shall carry. He may prescribe different charges for different quantities or different classes of goods. He may restrict himself and his employers in almost any respect he thinks proper. Subject to the foregoing, every common carrier is bound to carry for all comers on the same terms, and is liable to damages for refusing to do so or for neglecting or failing to do so. He is thus legally incapable of making any distinction of persons. The only legal plea a common carrier can have for refusing to carry is that he is already full and incapable of carrying more.

Unlimited Liability of Common Carriers. In addition to the foregoing obligations, every common carrier, in the ordinary course, is liable to an unlimited extent for the safety and prompt delivery of everything he carries; thus every common carrier who receives goods for conveyance becomes the responsible insurer thereof, and he is liable whether the injury or destruction is his own fault or not—that makes no difference. If he says something was stolen, it was his unqualified obligation to prevent the stealing; or if burnt, to prevent the burning; or if by accident of any kind, his assumption of the office of common carrier implies his responsibility for any accident, the only exception being “acts of God,” such as lightning, or seizure by persons in arms against the authority of the Crown.

Prompt Delivery in Good Condition. Everything carried by a common carrier must be delivered in reasonable time without prejudice to any person as compared with any other person. Withholding from any person an advantage in this respect which is conferred upon any other person, is a serious ground for exemplary damages. It is also the duty of the carrier to deliver in reasonable good condition according to the character of the goods. A plea that the goods were in bad condition when received will not always exonerate, for, if goods are manifestly not in a proper condition to be carried (from bad packing or otherwise), the duty of the carrier is to refuse to carry on that ground—that is one of the conditions which a carrier is permitted to make, and the law makes it for him in every case. Such are the leading points of the law to which carriers are liable, subject to innumerable details all tending to the same ends.

Carte Blanche is a white sheet of paper, but is generally understood to be such a sheet signed with the name of the giver, the receiver having *carte blanche* whereon to commit the signature to whatever the receiver chooses.

Cartel is an agreement between two belligerent powers for the exchange of prisoners of war.

Case stated is a statement of facts upon which there is no dispute, made by one court for an opinion of a superior court as to the legal deductions from the facts.

Cassation in French law refers to the Court of Cassation, which is the court of final appeal, authorized to confirm or quash what has been decided by an inferior court.

Catchpole is a sheriff's deputy charged with the duty of making arrests.

Cause List of a civil court is a list of actions pending, and the order in which they will be taken.

Cause of Action is the ground relied upon to sustain a plaintiff in an action.

Causes Celebres are celebrated cases.

Caution is sometimes used in lieu of surety or security; and cautioner is a surety.

Caveat, meaning "let him beware," is a notice to any court not to proceed in the business referred to without giving the issuer of the caveat notice of the proceedings, with power to appear and oppose.

Caveat Emptor is a legal maxim, implying that the buyer is bound to exercise more caution than the seller, as the ultimate risk must be the buyer's.

Central Criminal Court, The. This court (vulgarly called the Old Bailey) was erected by 4 & 5 Will. IV. c. 36, for the trial of offences committed in London, Middlesex, and certain suburban parts of Essex, Kent, and Surrey. The judges or commissioners of this court are the Lord Mayor of London, the Lord Chancellor or Lord Keeper, the Judges of the courts at Westminster, the Judge of the Admiralty, the Dean of the Arches, the Aldermen of London, the Recorder and Common Serjeant of London, the Judge of the sheriffs' court there, any person who has been Lord Chancellor or Lord Keeper, or a judge of any of the courts at Westminster, and such others as the Crown shall from time to time appoint. It is provided that the Crown may issue its commission of oyer and terminer (see that title) and gaol delivery to such court; and that the said judges, or any two or more of them, shall hold a session in the

city of London or suburbs thereof at least twelve times in every year, or oftener if need be, such times to be fixed by general orders of the said court, which orders any eight or more of the judges of the courts at Westminster are empowered from time to time to make.

Before the establishment of the Central Criminal Court, there existed "the Court of Sessions House in the Old Bailey," where the sessions of oyer and terminer, and gaol and general gaol delivery of Newgate, for the city of London and the county of Middlesex, were holden eight times a year. The gaol for such city or county is the gaol of Newgate; to which prison are committed all persons who are to take their trial at the Central Criminal Court, wherever their offences may have been committed.

Among the persons named above as those to whom the commission issues to hold this court, certain of the judges of the superior courts of law (who take it in turns to come), the recorder, the common serjeant, and the judge of the sheriffs' court, generally sit and act as the judges.

Ceorls. There were but two denominations of persons above the degree of servitude, Thanes and Ceorls. The latter for the most part cultivated the lands of their lords (every man being bound to place himself under the protection of some lord), on which they were bound to reside and could not quit, though in other respects they were freemen. But there were several conditions of ceorls, who in Domesday Book form two-fifths of the registered inhabitants. The ceorl might acquire land, and if he acquired as much as 500 acres he became forthwith a thane.

Certiorari. A writ issued out of one of the superior courts of common law addressed to an inferior court, whereby the latter is commanded to send up for the decision of the superior court a cause or matter pending in the inferior court.

Cession is the vacation by death or otherwise of a benefice.

Cestui que Trust is the legal description of the person or persons for whose benefit a trust is created.

Chairman of Committees of the whole House. In the Commons this officer, always a member, is elected by the House on the assembling of every new parliament. When the House is in committee on bills introduced by the Government, or in committee of ways and means, or of supply, or in committee to consider preliminary resolutions, it is his duty to preside; he sits, not in the speaker's chair, but at the table, in

the seat of the Clerk of the House. On divisions, when the members happen to be equal, he gives the casting-vote; but in committees he never otherwise votes. In August, 1853, it was by resolution of the House decided that, during the unavoidable absence of the speaker, this officer should preside in his stead. See 18 & 19 Vic. c. 94. In the Lords, the Chairman of Committees of the whole House is elected by the House every session; he usually holds in addition the office of Deputy-speaker of the House of Lords.

Challenge, an exception taken against jurors. In *civil actions*, when a full jury appears, either party may challenge them for cause, as well the talesmen (see "Tales") as the jurors originally returned. Challenges are of two kinds—(1) to the array; (2) to the polls, and each of these is again subdivided into two kinds, principal challenges and challenges to the favour. A challenge to the array is an exception to all the jurors returned by the sheriff collectively, not for any defect in them, but for some partiality or default in the sheriff or his under officer who arrayed the panel. This is either a principal challenge, as that the sheriff or other returning officer is of kindred or affinity to the opposite party, or is otherwise interested in his behalf; or a challenge for favour, being such at least as implies a probability of bias or partiality in the sheriff. It seems very doubtful if the array can be challenged in special jury cases. Challenges to the array are seldom resorted to, since the jury processes may be directed to the coroner, or the ground for the challenge would be ground for a new trial. A challenge to the polls is an exception to one or more of the jurors who have appeared, individually; a juror may be challenged as not qualified, or as having some supposed bias or partiality, or on account of some crime that he has committed. The trial of challenges to the array is entirely in the discretion of the court; sometimes they are tried by two of the coroners, sometimes by two of the jury, sometimes by the court itself. Challenges to the polls, if to favour, are tried by two jurors, who have been sworn; if two have not been sworn, the court appoints two indifferent persons to try them. A principal challenge to the poll is tried by the court itself. In *criminal cases*, challenges may be made either on the part of the Crown or on that of the prisoner, and either to the whole array or to the separate polls, for the very same reasons that they may be made in civil cases. The prisoner is allowed to challenge peremptorily (*i.e.*, without showing any cause), in cases of treason, thirty-five jurors; and in cases of

felony, twenty. After the prisoner has challenged his full number peremptorily, he must assign a sufficient reason for any further challenge.

Chamberlain, Lord, the sixth high officer of the Crown, to whom belongs the government of the palace at Westminster; and upon all solemn occasions the keys of Westminster Hall, the court of requests, are delivered to him. The principal part of his jurisdiction relates to the licensing of plays and play-houses.

Chambers, Judges', are *quasi* private-rooms, in which the judges dispose of points of practice not sufficiently important to be heard and argued in court. An appeal lies to the full court. Judges of all the courts have a concurrent jurisdiction at chambers.

Chancellor of the Duchy of Lancaster, an officer before whom or whose deputy the Court of the Duchy Chamber of Lancaster is held. This is a special jurisdiction concerning all matters of equity relating to lands held by the Crown in right of the Duchy of Lancaster, which is a thing very distinct from the county palatine, and comprises much territory lying at a vast distance from it—as particularly a very large district surrounded by the city of Westminster.

Chancellor, The Lord High. The Chancellor is always the confidential adviser of the Crown in state affairs, whence he is called the keeper of the king's conscience. The Lord Chancellor takes precedence of every temporal lord (except members of the royal family), and of all the bishops except the Archbishop of Canterbury. The Chancellor is a privy councillor by his office, a member of the Cabinet, and prolocutor or speaker of the House of Lords. The Chancellor is the general guardian of all infants, idiots, and lunatics, and has the supervision of all charitable uses in the kingdom. As regards his judicial patronage, the arrangement is that the Chancellor appoints in general all the judges of the superior courts, except the chief-justices, who are nominated by the Prime Minister of the day. Of inferior appointments the latter has also assigned to him those of the judges of the county courts. All these functions the Chancellor performs in addition to his judicial duties as supreme judge in Chancery, both as an ordinary court of law and record, and as an extraordinary court of equity. The salary of the Lord Chancellor is £10,000 a year. (See next title.)

Chancellor of the Exchequer. An officer who, according

to the old definition of his functions, presides in the Court of Exchequer, and takes care of the interests of the Crown. He is always in commission with the Lord Treasurer for the letting of Crown lands, &c., and has power, with others, to compound for forfeitures of lands upon penal statutes. While the Treasury is understood to have the custody and distribution of the collected revenue, it is the function of the Exchequer to realize it. Hence the Chancellor of the Exchequer, as the head of that department which proposes to parliament the plans for the annual revenue, and sees to its realization, is always an important minister. He is invariably a privy councillor and a member of the Cabinet, and he is sometimes Prime Minister. He has long given up the practice of sitting as a judge in the Court of Exchequer; but he always appears in that court once a year in his official robes at the pricking of sheriffs.

Chancery is the department of the law over which the Lord Chancellor has always been the chief judge. Its office has been to decide upon cases in equity—that is, where the application of the law, being strained or improperly applied, has been set aside by an appeal to Chancery. The old Court of Chancery was merged into a division of the Supreme Court of Judicature in 1875.

Chapels. Parishes, when first founded, were presumably, in general, of a size and population proportioned to the establishment of the single church and minister provided for them. The only exception to the uniformity of this system was, that in certain parishes chapels were founded, in which divine service and (in some instances) the rites of sacrament and sepulture might be lawfully celebrated. Some of these chapels were *private*, being erected for the use of particular persons only—while others were *public*, and designed for the benefit of particular districts lying within the parish. These chapels are described as *chapels of ease*, being built in aid of the original church. The nomination to these chapels belongs of common right to the incumbent of the parish. Considerable additions have been made in comparatively modern times, especially in towns, by the establishment of *proprietary* chapels—so called because they are the property of private persons, who have purchased or erected them with a view to profit or otherwise.

Chapter. See “Dean and Chapter.”

Charge d’Affaires is the official accredited by one state to another, to fulfil the duties of a representative in the absence of the ambassador or other superior official.

Charge Sheet is a list of the cases to be brought before a magistrate.

Charities. By the 16 & 17 Vic. c. 137 (called "The Charitable Trusts Act, 1853"), the 18 & 19 Vic. c. 124 (called "The Charitable Trusts Amendment Act, 1855"), and the 23 & 24 Vic. c. 136 (called "The Charitable Trusts Act, 1860"), it is provided that Her Majesty may appoint commissioners, to be styled "The Charity Commissioners for England and Wales," who shall have power to examine into all charities, and to prosecute inquiries by certain of their officers called Inspectors;—to require trustees and other persons to render to the Board of Commissioners written accounts and statements, or to attend and be examined on oath, in relation to any charity or its property; to authorize suits and proceedings concerning the same; to sanction building leases, repairs or improvements, or the sale or exchange of charity lands; to establish, in some cases, new schemes for the application or better management of a charity; and in others, to certify to parliament their opinion that they approve of a scheme which has been devised for such purposes; and to authorize a great variety of other acts to be done in relation to charities, such as the varying circumstances of each case may from time to time require.

By the last of the above Acts it is provided that the Board or Commissioners shall have power from time to time to order the appointment or removal of the trustees of any charity, or the removal of any schoolmaster or mistress or other officer; or the transfer or investment of any charitable estate. The jurisdiction, however, conferred by this statute, is not to be exercised where the gross annual income of the charity amounts to £50 or upwards, except on the application of the trustees or administrators of the charity, nor shall any trustee be removed on the ground only of his religious belief. Nor shall the board exercise such jurisdiction in any case which, by reason of its contentious character, or of any special questions of law or fact which it may involve, or for other reasons, they may consider more fit to be adjudicated on by any of the judicial courts. The court having jurisdiction in such matters, in cases where the gross annual income of the charity exceeds £50, is the Court of Chancery; but where the amount is below that sum, the district county court or bankruptcy court, who, after hearing the application in open court, are required to make such order therein as the case may require, though in certain cases such order shall not be effectual until confirmed by the board.

From the orders of the board there is, moreover, an appeal to the Court of Chancery. In the case of any charity, whatever may be the yearly value of its emoluments, such petition of appeal may be presented by the attorney-general, or any person authorized by him or by the board itself; and in case such income exceeds £50, then it may be presented by any trustee or administrator of the charity. A petition of appeal may also be presented by any two inhabitants of the parish or district to which an order of the board shall be specially applicable, or by any officer removed without the concurrence of a majority of the trustees, or other persons acting in the administration of the charity.

The Act, however, does not extend to the Universities of Oxford, Cambridge, or Durham, or any of the colleges or halls therein; or any cathedral or collegiate church; or the colleges of Eton and Winchester—though any of the exempted charities may petition the board to have the benefit of the above enactments allowed to them; and any charity whatsoever may refer any question or dispute arising among its members, in relation to the management of the same, to the arbitration of the board.

Courts of equity take cognizance of all charitable uses or trusts of a public description, and exercise, in relation to them, powers of a very extensive kind. Under the authority of these tribunals, trustees may be called to account for the charitable funds committed to their charge, or new trustees (where circumstances so require) may be appointed; improvident alienations of the charitable estates may be rescinded; schemes for properly carrying into effect the intentions of the donor (where the nature of the case requires such interference) may be judicially projected and established, and every species of relief afforded which the nature of such institutions requires. This equitable jurisdiction, however, is not allowed to trench upon the proper province of those to whom the administration of the charity is confided. In the case of corporations endowed for charitable purposes, the management is usually vested by charter in governors, subject to a controlling or visitatorial power in the founder or his heirs, or in such persons as the founder may appoint; and with the proceedings of such functionaries the law does not interfere, unless they have also the management of the revenues, and are found to be abusing their trust. It is to be observed, however, that when the king is the founder of an eleemosynary lay corporation, the visitatorial power is vested in the Crown and committed by royal authority to the Lord

Chancellor, who may thus be called upon to redress abuses properly falling within the province of a visitor; but this jurisdiction belongs to him in his personal character, and not in his judicial capacity.

It is a rule with respect to all charities, that the intention of the donor, so far as it is practicable and legal, shall be strictly observed; the law not permitting it to be varied without necessity, even with the consent of the heir. But where it is incapable of being literally acted upon, or its literal performance would be unreasonable, a decree will be made for its execution *cyprès*—that is, in some method conformable to the general object, and adhering as closely as possible to the original design of the founder. Thus, where a sum of money was bequeathed to trustees, to be distributed among the inhabitants of certain specified parishes, in money, provisions, physic, or clothes, as the trustees should think fit, and the fund ultimately became too large to be suitably confined to those objects—the court directed it to be applied to the further objects of instructing and apprenticing the children in the parishes for which the charity was designed.

The word “charitable” is used in a very large sense, being applicable not only to gifts for the benefit of the poor, but also to endowments for the advancement of learning, or institutions for the advancement of science and art, and for any other useful and public purpose. (See, further, “Education,” “Schools,” and “Mortmain.”)

Charter. This word, though formerly used as synonymous with deeds and other similar writings is now applied only to those grants of the sovereign by which corporations are created or some privilege or exemption conferred. (As to the great charter, see title “Magna Charta.”)

Chartists, the name of a party of political agitators in Great Britain, who sprang up about the year 1838, and whose views are developed in a document called the “People’s Charter.” As their so-called six points they advocated universal suffrage, vote by ballot, annual parliaments, no property qualification, the division of the kingdom into equal electoral districts, and the payment of members.

Charterer is an old name to designate a freeholder of Cheshire, but it is more familiarly applied to any one who hires a ship, the instrument being called a charter party.

Charter Party is the instrument under which a person hires an entire ship or boat for his sole use, and with responsi-

bility for the safe return of the ship, as distinguished from paying the owner to convey for him.

Chattel is the legal designation of all movable property, otherwise called personal property, as distinguished from landed property.

Chattel Interest is sometimes applied to deeds, agreements, or other appurtenances connected with or attached to land, but which cannot be severed from the land or disassociated from it.

Cheap Trains. The law relating to cheap trains on railways was amended by the Cheap Trains Act, 1883, which chiefly has reference to Railway Passenger Duty as dealt with under that head.

Cheques. The Act of 1882 (45 & 46 Vic. c. 61) defines that a cheque is a bill of exchange drawn on a banker payable on demand, subject to the succeeding conditions.

Where a cheque is not presented for payment within a reasonable time of its issue, and the drawer or the person on whose account it is drawn had the right at the time of such presentment as between him and the banker to have the cheque paid, and suffers actual damage through the delay, he is discharged to the extent of such damage—that is to say, to the extent to which such drawer or person is a creditor of such banker to a larger amount than he would have been had such cheque been paid.

In determining what is a reasonable time, regard must be had to the nature of the instrument, the usage of trade and of bankers, and the facts of the particular case.

The holder of such cheque as to which such drawer or person is discharged is a creditor, in lieu of such drawer or person, of such banker to the extent of such discharge, and entitled to recover the amount from him.

The duty and authority of a banker to pay a cheque drawn on him by his customer are limited.

Countermand. Every drawer of a cheque is entitled, any time before it is presented, to countermand the payment.

Death of the drawer of a cheque instantly renders it void.

If a banker, after notice of countermand, or notice of death of the drawer, honours a cheque, such banker is liable for the amount to the drawer, his executors, or administrators.

Crossed Cheques. A cheque is legally crossed generally when it bears across its face an addition of—

The words “and Company,” or any abbreviation thereof, between two parallel transverse lines, either with or without the words “Not negotiable;” or

Two parallel transverse lines simply, either with or without the word "Negotiable."

A cheque is legally crossed *pecially* when it bears across its face an addition of the name of a banker, either with or without the words "Not negotiable."

A cheque may be crossed generally or specially by the drawer; or,

Where not already crossed, any holder may cross it generally or specially; or,

Where the crossing is general, any holder may make it special; or,

Where a cheque is crossed generally or specially, any holder may add the words "Not negotiable."

Where a cheque is crossed specially, the banker to whom it is crossed may again cross it specially to another banker for collection.

Where an uncrossed cheque, or a cheque crossed generally, is handed to a banker, he may cross it specially to himself.

Except as before described, the altering or obliteration of a crossing is tantamount to forgery, and is punishable by penal servitude for life or for not less than five years; or imprisonment for two years, with or without hard labour and solitary confinement.

When a cheque is crossed it is the duty of the banker upon whom it is drawn to refuse to pay it on presentation unless it is presented by some bank, and if the crossing be special it must not be paid except to that particular bank, or to some other bank specially authorized to collect the amount as before described; and

Where a cheque is crossed specially to more than one bank (except when the second banker is expressly authorized to collect), it is the duty of the bank upon which it is drawn to refuse payment; and

If a bank pays the amount of a cheque contrary to the signification of the crossing as before described, such bank is liable to the true owner of the cheque for any loss he may sustain owing to the cheque having been so paid; but

If a cheque is presented for payment which does not at the time of presentment appear to be crossed, or to have had a crossing which has been obliterated or to have been altered or improperly added to, the bank paying the cheque in good faith and without negligence is not responsible and incurs no liability, and the payment cannot be questioned by reason of the cheque

having been crossed, or of the crossing having been obliterated or having been altered or improperly added to, and of payment having been made otherwise than to a banker to whom the cheque was crossed, or to his agent for collection being a banker.

Protection to banks and drawers is further provided for, in addition to the foregoing, by a section to the effect that when a bank on which a cheque is drawn in good faith and without negligence pays it, if crossed generally to a banker, and if crossed specially to the banker to whom it is crossed, or his agent for collection being a banker, the bank paying the cheque—and if the cheque has come into the hands of the payee, the drawer—shall respectively be entitled to the same rights and be placed in the same position as if payment of the cheque had been made to the true owner thereof.

“Not negotiable” is defined to mean that where a person takes a crossed cheque which bears on it the words “Not negotiable,” he shall not have and shall not be capable of giving a better title to the cheque than that which the person from whom he took it had.

Where a bank in good faith and without negligence receives payment for a customer of a cheque crossed generally or specially to himself, and the customer has no title or a defective title thereto, the bank does not incur any liability to the true owner of the cheque by reason only of having received such payment.

Chief Rent is a rent payable on some manors by the freeholders thereof; but it more usually applies to the rent payable under a renewable lease for lives, equivalent to a freehold subject to a quit-rent and the entry of successive lives.

Child. See “Parent and Child.”

Children. See “Dangerous Performances.”

Chiltern Hundreds. By the Act of Settlement (6 Ann. c. 7. sec. 26), if any person, being already chosen a member of the House of Commons, accepts of any office of profit from the Crown, his seat is vacated. A member of the House of Commons when once elected is not allowed by law to resign his seat; but by the above provision, if he accept an office of profit under the Crown he thereby vacates his seat. Accordingly, it has become the practice to confer on any member wishing to vacate his seat the stewardship of the Chiltern Hundreds (being certain districts in Buckinghamshire)—which, though a merely nominal office, is, by the practice of parliament, considered an office sufficient to vacate the seat.

Chimneys. Every chimney newly built or re-built must be

entirely of brick or stone, at least half a brick in thickness in every part, and the joints must be of good mortar or cement. If circular, it must be twelve inches in diameter, except four feet which may be narrower at the top; if square, nine inches in every section. Penalties extend to £50, or not less than £10.

Chimney Sweepers are liable to laws for restraining the employment of children and young persons. A child under ten years is forbidden to do anything whatever in the trade of a chimney-sweep off the premises of the chimney-sweep. A person under sixteen must not accompany a chimney-sweep about his work in or about any house or building; and a person under sixteen cannot be legally apprenticed to a chimney-sweep. It is unlawful for a chimney-sweep to permit a person under twenty-one to enter a chimney or flue in the way of his trade. The penalties range from £5 to £10, or imprisonment with hard labour.

Chivalry. There was formerly a Court of Chivalry, otherwise called the Court Military, presided over by the Lord High Constable and Earl Marshal of England, all long since abolished.

Cholera. With a view to mitigating an epidemic of cholera in London, an Act was passed called the Diseases Prevention (Metropolis) Act, 1883, which provided that any authority or body of persons having the management and control of any hospital, infirmary, asylum, or workhouse, may from time to time let the same or any part thereof to the managers of the Metropolitan Asylum District; or may enter into and carry into effect contracts with such managers for the reception, treatment, and maintenance therein of persons suffering from cholera within the metropolitan district; but the power conferred must not, without the consent of the Local Government Board, be exercised with respect to any asylum under the Metropolitan Poor Act, 1867, or any workhouse. Details are provided, and local authorities are expressly not exempted from their ordinary duties with reference to the prevention of disease.

Chose is a common expression in law, signifying "thing."

Church-Building Acts. A variety of statutes, passed from the year 1818 downwards, for the purpose of extending the accommodation provided by the National Church, and of making it more commensurate with the wants of the nation. Under the authority of these Acts, the Crown appointed a corporate body of commissioners, under the title of "Her Majesty's Commissioners for Building New Churches," whose duty it was to ascertain where additional church accommodation was most required, and out of the funds provided by parliament for

the purpose to cause such churches or chapels to be built as they thought necessary, or to assist the parishioners, or any persons subscribing for the purpose, with grants or loans of money. A number of additional powers were granted to the commissioners, with respect not only to the building, enlargement, purchase, or endowment of churches, but to the division of parishes (so far as ecclesiastical purposes were concerned) into separate parishes or separate ecclesiastical districts, and with respect also to many other purposes of the same general character. The powers of these commissioners were by a subsequent Act (19 & 20 Vic. c. 55) transferred to, and are now vested in, "The Ecclesiastical Commissioners for England and Wales."

An Act of 6 & 7 Vic. c. 37 enables the Ecclesiastical Commissioners to borrow from the governors of Queen Anne's Bounty; and provides that, if at any time it shall be made to appear to the Ecclesiastical Commissioners that it would promote the interests of religion that any part of such parishes, chapelries or districts, or any extra-parochial places, should be constituted a separate district for ecclesiastical purposes, the same not containing any church or chapel in use for divine worship (a condition subsequently dispensed with by 19 & 20 Vic. c. 104), it shall be lawful by the authority in the Acts provided—that is to say, by a scheme prepared by the Ecclesiastical Commissioners, and an order issued by Her Majesty in council ratifying such scheme, and with the consent of the bishop of the diocese—to set out such district accordingly by metes and bounds, and to fix and declare its name. The scheme, however, is first to be laid before the incumbent and patron, so as to give them the opportunity of making remarks or objections.

Upon the district being thus constituted, a minister is to be nominated thereto, with an income of not less than £100 per annum, and the right of nomination of such minister may be granted and assigned to any ecclesiastical corporation, or any of the universities of Oxford, Cambridge, or Durham, or any of their colleges, or any private person, or their nominees—upon condition of their contributing to the permanent endowment of such minister and towards providing a chapel for the district in such proportion and manner as shall be approved; but until the patronage shall be so granted, the right of nomination shall belong to Her Majesty and the bishop of the diocese alternately. At any time after the constitution of the district, and while it is

still unprovided with a church, the bishop may license any building within the same for performance of divine service, and may license a minister to perform pastoral duties in the district (with the exception only of burials and marriages). But after a church or chapel has been bought or built to the approval of the commissioners, and shall have been duly consecrated, the district shall become a new parish for ecclesiastical purposes, and shall be known by the name of the parish of — instead of the district of —; and it shall be lawful to solemnize marriages, baptisms, churchings, and burials therein; and the minister, having been first duly licensed by the bishop to such new parish, thereupon shall *ipso facto* become “perpetual curate” thereof, and shall be endowed with an income of not less than £150 per annum, and the new parish and church shall be deemed to be a perpetual curacy, and a benefice with cure of souls to all intents and purposes.

Church Rates were formerly enforceable in every parish, but were generally done away with by an Act passed in 1868, which, however, made certain exceptions under which rates are still enforceable in some parishes for special local religious purposes, where some act, charter, or prescription has created unusual circumstances.

Churchwardens are the guardians or keepers of the church and representatives of the body of the parish; but though in some sort ecclesiastical officers, they are invariably lay persons. They are sometimes appointed by the minister, sometimes by the parish in vestry assembled, sometimes by both together, as custom directs. But where there is no custom, it is said the election must be according to the canons; and these direct that they must be chosen by the joint consent of the minister and the parishioners, if it may be; but if they cannot agree, then the minister is to choose one, and the parishioners the other. They are to be chosen yearly in Easter week, and are generally two in number, and are obliged, when chosen, to serve, and are sworn to execute their office faithfully. The following persons are, however, either ineligible or are exempt from serving:—Peers of the realm, members of parliament, clergymen of the Church of England, Roman Catholic clergy, dissenting ministers, barristers, attorneys, clerks in court, physicians, surgeons and apothecaries, aldermen and dissenting teachers, all persons living out of the parish unless they occupy a house of trade therein.

Cinque Ports. The ports of Hastings, Romney, Hythe,

Dover, and Sandwich. On these ports extensive privileges were conferred by our early sovereigns, particularly by William the Conqueror and King John. Two other ports, Winchelsea and Rye, were subsequently added to their number. From their position, lying more immediately exposed to attacks from the French coast, they were supposed to be among the most important places in the kingdom, and were placed under the special custody of a lord warden. Before the Reform Act of 1832 they sent, including certain boroughs attached to them, no less than nineteen members to parliament. These, however, by the effect of that Act, were reduced to eight. The Cinque Ports possess a peculiar maritime jurisdiction, which has been regulated by several statutes. Until recently, moreover, the lord warden of the Cinque Ports and the constable of Dover Castle had a local jurisdiction in respect of civil suits and proceedings. This, however, was abolished by 18 & 19 Vic. c. 48.

Circuits. As to the origin of circuits, see sub-title "Assize, Court of." The circuits are eight in number—the Home, the Midland, the Norfolk, the Northern, the Oxford, the Western, the North Wales, the South Wales circuit. The judges go on circuit three times a year, in the vacations after Hilary, Trinity, and Michaelmas terms respectively. Every barrister is required to attach himself to a particular circuit.

Circular Notes are letters of credit by a banker upon other bankers abroad, in the nature of cheques, for the amount of which the bank issuing the note undertakes to be responsible.

Circumstantial Evidence is where there is no evidence in the nature of absolute proof, but where something is proved from which the evidence required may be reasonably presumed.

Citation is another name for a summons. It is the common word for the purpose in Scotland, and is used in the English Probate and Matrimonial Courts.

City of London Court is a minor court that was formerly called the Sheriff's Court. It has special powers with reference to the recovery of small debts by persons who carry on business within the city, and the rules and course of procedure are peculiar to it. Its authority is for the most part based upon the City of London Small Debts Extension Act, 1852.

Civil Bill Courts. Tribunals in Ireland with a jurisdiction similar to that of the county court in England. The judges of these courts are also chairmen of quarter sessions, and perform the duty of revising barristers.

Civil Law. This term is now chiefly applied to that law

which the Romans compiled from the law of nature and of nations. The Roman law and civil law are thus convertible phrases, meaning the same system of jurisprudence. The greater part of Britain was governed by the civil law for the space of about 360 years during the domination of the Romans. After the decline of the Roman empire, the Saxon, Danish, and Norman laws superseded a great portion of the Roman law; but not very long afterwards the civil law began again to exert its influence, and entered largely into the composition of the common law. Under the influence of the foreign ecclesiastics who, pouring into this country after the Conquest, long monopolized the administration of the law, great encouragement was given to the adoption of the civil law, till the nobility and laity became so jealous of ecclesiastical prosperity and progress, that a long and fierce feud ensued between the laity, stoutly struggling for the common law, and the clergy contending with equal determination for the civil and canon law, to which in the end they entirely betook themselves, and withdrawing from the temporal courts, left them to the superintendence of the common lawyers, still, however, keeping an ecclesiastic at the head of affairs in the high station of chancellor, who, as his office gradually increased in influence and power, was enabled in time to introduce much of the spirit of the civil law into the administration of municipal law, especially in the courts of equity.

Civil List. The annual sum granted by parliament at the commencement of each reign for the expense of the royal household and establishment, as distinguished from the general exigencies of the state. This provision is made for the Crown out of the taxes, in lieu of its proper patrimony, in consideration of the assignment of that patrimony to the public use. This arrangement has prevailed from the time of the Revolution downwards, though the amount fixed for the civil list has been subject in various reigns to considerable variation. The civil list was settled at the commencement of the present reign, by 1 & 2 Vic. c. 2, on Her Majesty for life to the amount of £385,000 per annum, payable quarterly out of the consolidated fund; of which the sum of £60,000 is assigned for Her Majesty's privy purse, and the remainder is applicable chiefly to the salaries and expenses connected with the household. In return for this grant, it was by the same Act provided that the hereditary revenues of the Crown (with the exception of the hereditary duties of excise on beer, ale, and cider, which were to be dis-

continued during the present reign) should, during the present queen's life, be carried to and form part of the Consolidated Fund. The civil list is the whole of the sovereign's revenue in his own distinct capacity ; the rest being rather the revenue of the public or its creditors, though collected and distributed again in the name and by the officers of the Crown. It stands, therefore, now in the same place as the hereditary income did formerly ; but with this great difference, that it is not chargeable, as the hereditary income was, with the general and public expenses of government.

Civil Procedure. The Statute Law Revision and Civil Procedure Act, 1883, made considerable changes with reference to civil procedure and matters connected therewith. The principal effect of the Act was to repeal numerous other Acts on the subject, whereby the civil procedure formerly prescribed in certain cases is no longer in vogue.

Clandestine Mortgages. When a freeholder proposes to mortgage land that is already mortgaged, and conceals the existence of the first mortgage so as to defraud the second mortgage, the mortgage so concealed is called a clandestine mortgage, and the person who so acts clandestinely is liable, in addition to damages, to imprisonment with hard labour for two years.

Clarendon, Constitutions of. These ancient laws arose out of the ecclesiastical pretensions of Thomas a Becket, and his refusal to submit to the civil powers. To meet the inconvenience thus caused, a council was held at Clarendon in 1164, when the so-called Constitutions of Clarendon were promulgated, and were subsequently acted upon for the purpose of restraining the clergy. The constitutions served their purpose when they were in force, but they have long since been superseded.

Cleopatra Needle. This singular relic of antiquity is the subject of an Act of Parliament of 1878 (41 & 42 Vic. c. 29), by which the Metropolitan Board of Works is expressly authorized to erect the Needle on the Victoria Embankment, and is under obligation henceforth to preserve and maintain the same for the benefit of the public, and the Board may erect in connection therewith any appropriate works of art. Any person who injures or disfigures the obelisk, or any monument erected or to be erected on any part of the several Thames Embankments, or who posts any bill or placard, or who writes, cuts, prints, draws, or marks in any manner any word or character, or any representation of any object on the obelisk or such monument,

is liable for every offence to a penalty of five pounds or imprisonment in default.

Clergy. The collective title applied to those who have been ordained or admitted into holy orders. (See also "Ordination.") During the Middle Ages, up to the time of the Reformation, the clergy were, in England as in other countries, a very privileged body (see titles "Clergy, Benefit of;" "Ecclesiastical Courts;" "Clarendon, Constitutions of"); but they were deprived of most of their distinctive privileges at the Reformation. The three orders of the English clergy are bishops, priests, and deacons (see those titles respectively); but this distinction is of an entirely different kind to that which arises out of office or appointment—as that of archbishop, bishop, dean and canons, rector, vicar, curate, and the like. Until very recently a clergyman of the Church of England could never divest himself of his spiritual character; but by the Clerical Disabilities Act, 1870, he is enabled, by going through certain forms, to relinquish his orders, and by again becoming a layman free himself from any disability which his position as a clergyman subjected him to. The clergy have at the present day several personal exemptions. A clergyman cannot be compelled to serve on a jury; nor can he be chosen to any temporal office, as bailiff, reeve, constable, and the like. He cannot be arrested on civil process during his attendance at divine service, and in going to and returning from the church. The glebes and tithes of his parsonage are not liable to be seized in execution to satisfy a judgment in the same manner as lay property, but to a sequestration (see that title). The clergy, on the other hand, lie under certain disabilities. By 41 Geo. III. c. 63 they are incapable of being elected members of the House of Commons; though by the Clerical Disabilities Removal Act of 1870 a clergyman may now, by divesting himself of his orders, render himself eligible for a seat in parliament. By 5 & 6 Will. IV. c. 76, sec. 28, they are incapable of being councillors or aldermen in boroughs. The beneficed clergy are also prohibited from farming or trading, for by 1 & 2 Vic. c. 106, secs. 28–30 (repealing some former enactments on this subject), no spiritual person holding any cathedral preferment or benefice, or any curacy or lectureship, or allowed to perform the duties of any ecclesiastical office, shall take to farm for occupation by himself any lands exceeding 80 acres in the whole, without the permission in writing from the bishop of the diocese; nor shall such spiritual person by himself, or any other to his use, carry on any trade or

dealing for profit, unless it be carried on by more than six partners, or his share shall have devolved on him by inheritance, or other such representative title as in the Act specified; and even in these excepted cases it is illegal for him to act as director or managing partner or to carry on the trade in person. He may, nevertheless, carry on the trade of a schoolmaster, or deal with booksellers for the sale of books, or be a managing director, partner, or shareholder in any benefit society, or fire or life insurance society; or buy or sell to the extent necessarily incidental to his lawful occupation of land, or to sell minerals the produce of his own land—provided that none of such transactions be conducted in person, in any market or place of public sale.

The clergy were formerly divided into two classes—the regular and the secular; the former being those that belonged to some religious order and were governed by the rules (*regula*) thereof; the latter were such as were not regular.

Benefit of Clergy was a form of exemption formerly claimed and allowed in certain cases when the clergy were placed upon trial. It was frequently extended to laymen under various legal pretences, and was much abused in a variety of ways. Benefit of clergy in cases of felony was abolished by 8 Geo. IV. c. 28.

Clerk of Arraignment. An assistant to the Clerk of Assize. His duties are in the Crown Court while on circuit.

Clerk of Assize. An officer who officiates as associate in the circuits. He records all the judicial proceedings done by the judges on circuit.

Clerk of the House of Commons. An officer of great trust and importance. He, with two assistants, sits at the upper end of the table on the floor of the House. The Crown appoints him by letters-patent, and when necessary he can appoint a deputy. It is his duty to record the votes, resolutions, addresses, orders, reports, divisions, and all other proceedings of the House; to see that they are correctly printed and distributed to the members; to read aloud all such documents as the House may order to be read; to perform the duty (without taking the chair) of president or moderator during the choice of a speaker, putting the question and directing a division in the same manner as a chairman would.

Clerk of the Market was formerly an important functionary in every legally constituted market, his office being, amongst other things, to see that the weights and measures in

use were just. Some curious customs are still in force in some markets, but the clerk's powers are materially curtailed by modern laws for the regulation of weights and measures.

Clerks' Salaries. See "Bankruptcy" (*Preferential Creditors*) and the "Companies Act, 1883."

Client is a person who accepts the professional services of a solicitor, for which the client is chargeable as for costs. Barristers call the solicitors who instruct them their clients, and the expression has been extended into various departments of business.

Cocket is the document upon which an exporter or importer renders to the Customs authorities particulars of the goods he exports or imports, with a view to charging them with duties, or otherwise for the purpose of making public trade returns, relative to which the government officials possess special powers of enforcement, and punishment for neglect or fraud.

Codicil is a supplement or postscript to a will, and, if duly executed, has equal force with the will, and sometimes supercedes the will either partially or entirely.

Coffee. Prior to August, 1882, it was illegal to import imitations of coffee other than chicory; but by an Act passed in that month, any vegetable substance in imitation of chicory may be imported, subject to the same proportion of duty as is for the time being chargeable upon chicory, and it is expressly rendered lawful to sell instead of coffee or to mix with coffee any kind of vegetable substance in imitation of chicory or coffee, provided that it be sold in packets duly labelled with an Excise stamp costing at the rate of one halfpenny for every quarter of a pound. With reference to the labels, they are supplied by the Excise office, and such label or labels must be affixed so that the whole thereof shall adhere to the packet, and so that the packet cannot be opened without tearing or destroying the label or labels. The penalty for selling contrary to the foregoing provisions is £20.

Cognizance is a plea in replevin, to the effect that the person who seized the goods did so as the servant of another.

Cognovit Actionem is a written instrument by which the defendant acknowledges the plaintiff's claim, and is thereby committed to payment accordingly. This process, rendered popularly familiar by the imprisonment of Mrs. Bardell under a cognovit given by her to Dodson and Fogg, was formerly open to much abuse. By the Debtors' Act, 1869, a cognovit is

invalid unless it be given with the concurrence and attestation of the defendant's attorney, and unless the instrument is filed in the Queen's Bench within twenty-one days after date.

Coke, Sir Edward, was Lord Chief Justice in the time of James I. He wrote the "Institutes," and is always appealed to as a legal authority of the highest order. His first institute was a commentary upon the previous writings of Littleton, and "Coke upon Littleton" is considered a necessary introduction to legal studies.

Collation. Where a benefice is in the gift of the bishop, the presentation and institution are one and the same act, and are called a *collation* to the benefice. (See also "Benefice.")

Collateral implies one thing parallel with another. Thus, if a man executes a deed and also a bond for the faithful observance of the terms of the deed, such bond is called a collateral assurance.

Collateral Consanguinity is the relationship of persons who have descended from the same person, but are neither descended from the other.

Collateral Issue is when, in a criminal case, it is attempted to bring in evidence that implies or is put forward to imply a presumption against the accused.

Collegiate Church. A religious house built and endowed for a society or body corporate—a dean, or other president and secular priests, as canons or prebendaries, independently of any cathedral. Westminster Abbey is a notable instance.

Combinations of Persons are unlawful when they are composed of persons unknown to each other, or when an unlawful oath is required of each member.

Commandite, in French law, is an association of capitalists and labourers; the one contributing money and the other industry and skill for mutual advantage.

Commander-in-Chief. The highest officer in the British Army. The office of the Commander-in-Chief, technically known as the Horse Guards, comprises the departments of the Military Secretary, the Adjutant-General, the Quartermaster-General, with a large staff of secretaries, clerks, &c. The duties of the Commander-in-Chief have never been clearly defined as distinguished from those of the Cabinet minister who presides over the War Office. In a general way, the Commander-in-Chief is responsible to the Crown for the discipline and efficiency of the army, the conduct and capacity of the officers, and its general

organization. He has hitherto appointed to army commissions, and promotions and appointments are as a rule in his hand. Appointments of the more important character are not made without the concurrence of the War Office, and appointments of generals to command an army in time of war or undertake any particular expedition are made by the Ministry of the day.

Commendam. A benefice was said to be held in commendam when it was commended by the Crown to the care of a clerk, to hold till a proper pastor is provided for it. By 6 & 7 Will. IV. c. 77, sec. 18, no ecclesiastical dignity, office, or benefice shall be held in commendam by any bishop unless he shall have held the same when the Act passed; and every commendam thereafter granted, whether to retain or to receive, and whether temporary or perpetual, shall be absolutely void.

Commissary. In the ecclesiastical law an officer of the bishop, who exercises spiritual jurisdiction in places of a diocese so far from the episcopal see that the chancellor cannot call the people to the bishop's principal Consistory Court without putting them to inconvenience.

Commissary Court, in Scotland, a court originally constituted by the bishops and anciently called the Bishops' Court. It remained in a modified form till a recent period, when its powers were transferred to the Court of Session.

Commission—Commissioner. There are some great officers of state which it has lately been the practice to supersede by commissions. Thus the offices of Lord High Treasurer and Lord High Admiral have been put into commission, the lord of each such commission being termed the First Lord Commissioner. The great seal is sometimes placed in commission. Many commissions are judicial, as the commissions of oyer and terminer, of the peace, of gaol delivery in England; the commission of teinds in Scotland. Others are purely administrative, such as the poor-law commission (now merged in the Local Government Board), the board of health and the revenue boards. Commissions of inquiry are sometimes appointed either by the sovereign or by parliament to conduct inquiries.

Commissioners for taking Affidavits in the Common Law Courts. Attorneys so appointed under 29 Car. II. c. 5. They are appointed by the judges.

Commissioners to administer Oaths in Chancery. Officers who exercise the powers and discharge the duties formerly

appertaining to the master extraordinary. Solicitors of ten years' standing are eligible for the appointment.

Commissioners, High Court of. This was formerly an important tribunal, first constituted in the first year of Elizabeth. It was abolished during the reign of Charles II. James II. tried to revive it, but did not succeed.

Commission, Military. The warrant authorizing the holder to exercise the functions of his office in military affairs. Until the passing of the recent Act (the Army Regulation Act, 1871) an original commission in the army, and each step in promotion, might either be acquired by purchase, according to the rules of the service, or the appointment and promotion might be made without purchase by the commander-in-chief. But, independently of that Act, the commissions in the navy, the artillery, engineers, and marines, are conferred by the Ministry without purchase. Cadets who had completed a course of military education at Sandhurst were likewise appointed without purchase. (See "Purchase, Abolition of.")

Commitment, in criminal law, is the sending to trial a person who is charged before a magistrate with a crime, of so serious a nature, that the magistrate is not qualified by law to deal with the offender in a summary manner, but must send him to be tried before the proper tribunal.

It is also an expression used in parliament to denote the sending of a bill to be dealt with in committee, such bill then being said to be *committed*.

Committee, Parliamentary. Parliamentary committees are either "of the whole House" or "select." A committee of the whole House is the House itself, with a chairman instead of the speaker presiding. The chair is taken in the Lords by the Chairman of Committees appointed at the beginning of each session; in the Commons by the Chairman of the Committee of Ways and Means. Matters relating to religion, trade, the imposition of taxes, or the granting of public money, are generally considered in committee before legislation, as also are the provisions of any public bill. Proceedings are conducted in nearly the same manner as when the House is sitting, the Lords being addressed in the Upper House and the Chairman in the Lower, who has the same power to maintain order as the speaker, and a casting-vote in case of equality. In committees of the Commons, as in the House itself, a quorum of forty members is required; but if that number is not present the speaker must resume the chair to adjourn the House. A motion in committee

need not be seconded, and there is a more unlimited power of debate than in the House, members being at liberty to speak any number of times on the same question. When the business of committee is not concluded on the day of sitting, the House is resumed, and the chairman moves "that the House be again put into committee on a future day" in the Lords, and in the Commons reports progress and asks leave to sit again.

Select committees are composed of a limited number of members appointed to inquire into any matter and report to the House. In the Commons it is usual to give select committees power to send for persons, papers, and records; in the Lords, they may without any special authority summon witnesses. In neither House can the committee enforce the attendance of a witness; this must be done, when necessary, by the House itself. The committee have certain standing orders for ensuring the efficiency of committees and impartiality in their appointment. No select committee is to consist of more than fifteen. Members moving for a committee must ascertain whether the members whom they propose to name will attend. Lists of the members serving in each committee are to be affixed in the committee clerk's office and lobby. In the Lords there are no special rules regarding the appointment and constitution of committees; but resolutions containing arrangements similar to those of the Commons have been adopted since 1852. Select committees have the power of adjournment from time to time, and sometimes from place to place. Except where leave of absence has been obtained, no member can excuse himself from serving on committees to which he may have been appointed, or for not attending when his attendance has been made compulsory by order of the House. In committees or private bills in the Commons, the chairman has a deliberative as well as a casting-vote.

Common Law. The meaning of this term is very ambiguous, it being used in various senses according to the objects with which it is contrasted: it being so contradistinguished, sometimes from the statute law, sometimes from the canon or civil law; occasionally from the *lex mercatoria*, and frequently from equity. As distinguished from the statute law, the expression "common law" means all those principles, usages, and rules of action applicable to the government and security of person and property, which do not rest for their authority upon any express or positive declaration of the will of the legislature. "The common law," says Lord Coke (using the term in this sense),

"is nothing more than a custom extending over the whole land." The common law (in this sense of the term) is the unwritten law of the realm; it receives its binding power, as a law, from long and immemorial usage and universal reception throughout the realm. It rests entirely upon usage, as declared by the judges, who are the sworn depositaries and interpreters of the law. Its principles and rules are chiefly to be gathered from the old writers (particularly Glanville—temp. Henry III.; and Bracton—temp. Henry III.), and from the reports of judicial decisions, which are the authoritative declarations of the judges of what is the law. In the common law courts, the principles of the "common law" (except in so far as they have been specially altered by Act of Parliament, and except in so far as these courts have power by statute to uphold equitable doctrines) are rigidly upheld. The expression "common law," as distinguished from equity or the civil or canon law, simply means the law (both common law and statute law) as administered in courts of common law, as opposed to the system administered in courts of equity or in the ecclesiastical courts.

Common Law Procedure Acts. These are 15 & 16 Vic. c. 76 (1852); 17 & 18 Vic. c. 125 (1854); 23 & 24 Vic. c. 126 (1860).

Common Nuisance is one of a public character, as distinguished from one affecting an individual only or any limited number of persons.

Common Seal is the seal of any incorporated body.

Common Sergeant is an official subordinate to the Recorder of the City of London, with the right and duty of acting *ex officio* as one of the judges of the Central Criminal Court.

Common, Tenancy in, is where two or more have equal or common rights in property, but where the rights are separate and capable of becoming antagonistic, as distinguished from a joint tenancy where the rights are merged.

Common Traverse is a simple denial of what is alleged by the opposing party in an action.

Commons. Almost the whole soil of the country having at the Conquest been distributed by William I. among his feudal followers in the form of manors, of which the grantees were respectively the lords, these lords again distributed the greater part of the soil of their manors among various classes of persons to hold by various tenures. The remainder was termed the "lord's waste," and, as the name denoted, was left uncultivated, being covered in some cases with natural pasture, in others with

trees, underwood, gorse, or water. Before the statute "*Quia emptores*," 18 Ed. I. c. 1, a right of common in this land was incident to the grant of arable land within the manor; that is to say, if the lord granted a certain portion of arable land on military or socage tenure, mentioned, the law implied that he granted therewith a right to use the waste. This right of using the waste was called a "right of common," and, according to the state of the waste, was a right to pasture beasts on it (which was known as right of *common of pasture*); a right to cut turfs for fuel (*common of turbary*); a right to cut wood, or, as it was termed, to take "botes"—house-bote, cart-bote, plough-bote. hedge or hay-bote (*common of estovers*); a right to fish (*common of piscary*). When land became more valuable, it was decided that this right was limited to the requirements of the tenant in respect of his holding.

Subject to these rights, the soil of the waste belongs to the lord of the manor as fully as any other land. He may, in general, maintain an action against any one walking over it (unless there be a right of way), and it has been held that even a commoner cannot justify coming on the waste except he come to exercise his "right of common." Nevertheless, though this ample power, in general, belongs to the lord of the manor, he has always been slow to have recourse to it; and for this plain reason, that, the waste being uncultivated, little or no harm is done by the persons coming on it.

The expense attending the procurement of a Special Inclosure Act led in 1845 to the General Inclosure Act (8 & 9 Vic. c. 115), by which the whole management of inclosures was placed in the hands of the Inclosure Commissioners, and necessity obviated of obtaining a separate Act of Parliament in each case. The Act divides all lands which are to be subject to it into two classes. The first comprises what are popularly termed "commons" (land upon which no severalty rights exist); the second class, those fields upon which severalty rights do exist during a certain portion of the year, but which are used in common by persons other than the owner during the remainder of the year. The lands of this second class are generally known as "stinted pasture." Upon application by one-third in value of the parties interested, the commissioners are to inquire into the expediency of the proposed inclosure, and report on it to parliament. A veto, however, to the proposed inclosure is given to the lord of the manor. If parliament consent to the inclosure, the commissioners are to appoint some competent person to value the

land, and to allot it in proportion to the rights of the parties interested. The commissioners have also power to arrange both the public and the private roads that are to be made over the land; to set out some part of it, if they see fit, as a regulated pasture, for the benefit of those whose claims are hardly large enough to entitle them to an allotment, and to decide upon the rights to minerals, &c., under any land which they may see fit thus to leave as a regulated pasture. The Act further provides that its provisions shall not extend to places known as village greens, so that the commissioners have no power to entertain a proposal to inclose such places. It also gives the commissioners power, in their provisional order concerning the waste lands of a manor, to require, as one of the conditions of the inclosure, that a certain part shall be allotted to the public for the purpose of recreation and exercise.

Another Act has especial reference to commons within fifteen miles of London, "The Metropolitan Commons Act, 1866" (29 & 30 Vic. c. 122). It provides that the Inclosure Commissioners shall be incompetent to entertain a proposal to inclose any such common. It further provides that a scheme may be brought forward by the local authority (meaning thereby, in some cases, the Metropolitan Board of Works, in others the local board, in others the vestry of the parish in which the common is situate) to provide for the drainage, levelling, and improvement of such commons. The expenses thus incurred are to be paid out of the local rates.

New provisions are made for preventing the alienation of commons by the Commons Act of 1876 (39 & 40 Vic. c. 56).

An Act to amend the law respecting the expense of regulating commons was passed in 1878 (41 & 42 Vic. c. 56). Proceedings under it must be initiated and confirmed through the Inclosure Commissioners.

An Act to extend to Metropolitan commons certain provisions of the Commons Act, 1876, was passed in 1878 (41 & 42 Vic. c. 71), by which the Metropolitan Board of Works is entitled to take action.

Compensation for extinguishment of rights of common is provided by the Act of 1882 (45 & 46 Vic. c. 15).

Commons, House of. See "Parliament."

Commonwealth, the name adopted for the Government of England under Cromwell, is otherwise interpreted to be a democratic confederation for the common good, or, as the old phrase had it, *common weal or wealth*.

Commutation of Tithes is the assessment of tithes according to the current prices of corn.

Companies. The name generally given to a trading corporation. Companies, like other corporations, are fictitious bodies existing by intendment of law only, composed of members who, as members of the company, are regarded by the law as filling a different capacity to that which they fill as private individuals. Companies are established by charter—granted either from the Crown or by Act of Parliament, or pursuant to the provisions of some general Act of Parliament for the incorporation of trading companies. The most noticeable of these general Acts is “The Companies Act, 1862” (25 & 26 Vic. c. 89), by which almost all the preceding Acts relating to this branch of the law are repealed. The main object of this Act and of its predecessors was to enable persons to form themselves into a sort of qualified corporation for trading purposes. It is accordingly provided, by the Act of 1862, that any *seven* or more persons associated for any lawful purpose may, by subscribing their names to a memorandum of association and otherwise complying with the requirements of the Act in respect of registration, form an incorporated company, with or without limited liability. It also enacts that no company or association consisting of more than twenty persons (in the case of a bank the number is ten) shall be formed for the purpose of carrying on any business that has for its object the acquisition of gain for the association, or the individual members thereof, unless it is registered under the Act, or is formed in pursuance of some other Act, or of letters patent, or is a company engaged in working mines within and subject to the jurisdiction of the Stannaries. (Vid. sub-title “Stannaries.”) Thus the number of seven is the minimum number of persons who can start a company, and if after the formation of a company the number is ever reduced to less than seven, and the company carries on business for six months after the reduction, every person who is a member during the time that it so carries on business after the six months, and knows that it so carries on business with less than seven, shall be severally liable for the whole debts of the company contracted during such time. Seven being thus the smallest number that can constitute a company, twenty is the largest number of persons who can trade together without being formed into a company.

Upon the registration of a company under the Act, the registrar of joint-stock companies is to certify under his hand that the company is incorporated; and in the case of a company

the liability of whose members is limited, that it is a "limited company;" and thereupon the members are a body corporate by the name contained in the memorandum of association, capable forthwith of exercising all the functions of an incorporated company, and having perpetual succession and a power to hold lands; and also with power to each member to transfer his interest without consent of the rest. The certificate so given by the registrar is conclusive evidence that all the requirements in respect of registration have been complied with. The management of the company is vested in directors, who are appointed by the members. Though the company is a body corporate and has therefore a corporate liability, yet the Act establishes an individual liability also in its members. They may be liable to the amount (if any) unpaid on the shares respectively held by them—when it is called a "company limited by shares;" or liable to such amount as the members respectively undertake to contribute to the assets of the company, in the event of its being *wound up*—when it is called a "company limited by guarantee;" or may have no limit placed on the liability of its members—when it is called an "unlimited company." And as to the individual liability, the rule is thus more fully given: that in the event of a company formed under the Act being wound up, every past and present member shall be liable to contribute to the assets of the company to an extent sufficient to pay the debts and liabilities of the company and the expenses of the winding-up, and to pay such sums as may be required for the adjustment of the liability among the several contributories. This liability is, however, subject to the following qualifications: in the case of a company limited by shares, no contributions shall be required from any member beyond the amount (if any) unpaid on the shares in respect of which he is liable; and in the case of a company limited by guarantee, no contribution can be required beyond the amount of the guarantee. As to past members, no past member is liable if he has ceased to be a member for one year or upwards prior to the commencement of the winding-up, or for any debt or liability contracted after he has ceased to be a member; and no past member shall in any case be liable, unless it appears to the court before whom the winding-up takes place that the existing members are unable to satisfy the contributions required to be made by them.

As regards the winding-up of joint-stock companies, any person to whom the company is indebted at law or in equity in a sum exceeding £50 then due, and who has served upon the

company by leaving the same at their registered office a demand under his hand requiring the company to pay the same, may, if he obtains no satisfaction within three weeks, take proceedings to have the company wound up; and this course may also be taken by any creditor at law or in equity, if execution or other process issued on a judgment, decree, or order obtained in his favour, is returned by the officer who had to levy under it unsatisfied. The course for such creditor to take is to present a petition to the Chancery Division, which, if it think fit, may thereupon make an order for the winding-up of the company. The court may then appoint a person under the name of the "*official liquidator*," to take into his custody all the property, effects, and things in action of the company, and deal with them by sale or otherwise as the court may sanction, and generally do all such other things as may be necessary for winding up the company and distributing its assets. The court is also to proceed to settle a list of *contributories*—or persons liable as members to contribute to the assets of the company—and to make calls on all or any of the contributories (to the extent of their liability) for payment of the sums necessary for the satisfaction of the debts and liabilities of the company, the costs of the winding-up and the adjustment of the rights of the contributories among themselves; and, as soon as the affairs of the company have been completely wound up, is to make an order that the company be dissolved. It may also be observed that a company may be wound up by the court on its own petition, or on the petition of a contributory. There may also be a *voluntary* winding-up where the company passes a resolution for the purpose; or there may be a voluntary winding-up under the supervision of the court. In either of the two last-mentioned cases a liquidator is appointed, who proceeds to wind up the company in the same way as the official liquidator appointed by the court, in cases where the proceedings are other than voluntary.

An Act of 1877 (40 & 41 Vic. c. 26) makes further provision for reduction of capital, and also gives power to reduce capital by the cancellation of unused shares.

An Act of 1879 (42 & 43 Vic. c. 76) enables banks already incorporated with unlimited liability to render their liability limited. At option of shareholders in special general meeting, the nominal amount of each share may be increased so as to add to the nominal liability of each shareholder, but such nominal liability is not to take effect except for the purpose of winding-

up in liquidation, but the limitation of liability cannot be extended so as to cover the notes issued by and in the name of the bank, in respect of all which the liability of every bank shareholder remains unlimited. New provisions are introduced for the audit of accounts of banking companies.

An Act to amend the Companies Acts of 1862, 1867, 1877, and 1879, was passed in 1880 (43 Vic. c. 19). It provides that accumulated profits may be returned to shareholders in reduction of paid-up capital. No resolution to this effect to take effect till particulars have been registered. Power is given to any shareholder within one month after passing of resolution to require company to retain moneys paid upon shares held by such person, and the company must specify amounts which shareholders have required them to retain, and also must specify amounts of profits returned to shareholders. The Act also gives new power to the registrar to strike off the register the names of defunct companies.

Companies Clauses Consolidation Act. This Act of 1845 (8 & 9 Vic. c. 16) is for the regulation of the terms on which landed property may be acquired for the construction of railways and other works; and since the date of it every Act for empowering a company to take land has had embodied with it this Act, whereby procedure for the ultimate acquisition of the land required is rendered uniform.

The Companies Act, 1883, was passed to provide that in the distribution of the assets of any company being wound up there shall be paid, in priority to other debts, all wages or salary of any clerk or servant in respect of service rendered to the company during four months before the commencement of the winding-up not exceeding £50; and all wages of any labourer or workman in respect of services rendered to the company during two months before the commencement of the winding-up.

The Companies (Colonial Registers) Act, 1883, was passed to authorize companies to keep local registers of their members in the British colonies.

Compensation is the established term for the claim of a person whose lands or premises are taken for a railway or other undertaking empowered to acquire possession by compulsion. The term also applies to the claims of persons who have suffered from such a felony as is contemplated by the Felony Act, 1870, or as reward for promoting the conviction of criminals.

Composition Deed. Bankruptcy often has been and may still be avoided by making a composition with creditors in a

private way, and success may be confidently anticipated for almost any offer of composition which is accompanied by the tender of a sum of money down. For that purpose the debtor must have a reserve of cash ready for the emergency, or else he must have a friend ready to advance a respectable amount. In either case it sometimes happens that the offer of a comparatively small dividend will get over the difficulty by inducing the creditors to come in, as it is generally to their advantage. Sometimes it may be arranged for the composition to be paid by instalments at stated intervals, and this may prove easy to accomplish if the first instalment stipulated for is ready to be paid down. Every debtor, in endeavouring to negotiate a composition, must avoid informal proceedings, as an informal memorandum by a creditor to take less than is owing is worthless; and though a creditor should take less than the amount of the debt and give a receipt in full of all demands, that will not bind him if he should afterwards repudiate the compact. Therefore, every consent to take a composition to be effectual must be by deed duly sealed and delivered. If there is no proviso to the contrary, all who execute the deed are bound without binding those who do not execute; but it is customary to provide that if all the creditors in the debtor's list do not execute then the deed shall be void. If the terms stipulated for in the deed are not fulfilled, the deed is thenceforth void, and all the creditors are absolved from its provisions. If an instalment is not paid at the time provided, any creditor to whom it is payable has his right of action for the full unpaid balance of the original amount of debt, setting aside the composition altogether. It has been expressly decided on many occasions that the sums stipulated for must be tendered to the respective creditors in due time, for it is no part of the duty of any creditor to apply for the payment due to him, for it is the duty of the debtor to seek out his creditors, if need be, for the purpose of making tender. The debtor is therefore vitally interested in faithfully adhering to his stipulations; otherwise, all his labour may be in vain, his debts may revive in full, and the ruin of the position of freedom he might have gained is probably inevitable. On the other hand, when a composition depends upon fulfilment by instalments, and they are not paid, it is too much the custom of creditors to remain passive as though there were no remedy. Such is an unwise course, for when an instalment under a composition is not paid the right of action immediately accrues.

Compound Householder is the tenant of a house in

respect of which the landlord compounds for the local rates. The landlord is bound to give the names of his tenants, and they are hence entitled to be placed on the register of voters as if they paid the rates themselves.

Compound Larceny is where something is stolen from the person or from the house, which is an aggravation of a common larceny.

Compounding. This expression as most known is when a person agrees to take less than is owing to him, which is compounding a debt. Such agreement must be of an unqualified character or it may be deemed void.

Compounding a Felony is where a person from whom something has been stolen, or who has suffered from any criminal offence, agrees with the thief, for a consideration, to forego a prosecution. It was formerly regarded as a very serious offence, and may be in some cases still, subject to fine and imprisonment; but considerable relaxation of ancient ideas on the subject has been manifested of late years, and the return of what is stolen or compensation for the loss is not now regarded as the taking of such a consideration as would subject the party to a prosecution for compounding. In some cases, however, compounding may be interpreted to amount to becoming an accessory after the fact. In most cases of embezzlement the sufferer is at liberty to proceed for recovery by civil action, which is not open to the charge of compounding.

Compounding a Misdemeanour is much on the same footing as in cases of felony. In either case the sanction of the court to any proposed compromise will exonerate from the charge of compounding; but proceeding clandestinely, so as to conceal from the court that a compromise is being secretly effected, is very dangerous.

Compounding of Informations without leave of court, in cases of public offences, is a serious offence liable to be severely dealt with.

Conacre is a custom prevalent in Ireland, whereby the freeholder licenses another to enter upon land for the purpose of sowing or tillage of a defined area or crop, and the gathering of the same in due course, with all necessary rights of access accordingly. The consideration for such right is in the nature of rent, and the arrangement creates a tenancy in conacre.

Concubinage is a plea in bar of a claim to dower, when the claimant alleges she is a widow, but where she is resisted on the ground that she was not really married to the deceased person whom she alleges was her husband.

Conditional Fee is an estate in fee subject to a condition. **Conditions Precedent and Conditions Subsequent** are important distinctions necessary to be well borne in mind by every law student. A condition precedent implies something to be proved or done prior to the legal acquisition of any property or right. A condition subsequent implies something to be hereafter done in order to maintain possession of any property or right.

Condonation is when a person who has suffered a wrong passes it by without seeking legal redress. In matrimonial causes it signifies that the aggrieved party has lived with the other without remonstrance or legal action, or has taken the other back to bed and board after the commission of an alleged offence. In any such case it is not competent for the aggrieved party to proceed upon any offence that has been condoned, however heinous the offence may have been.

Conduct Money is an old expression signifying the compensation due to a witness at a trial.

Conference between the two Houses of Parliament. A species of negotiation between the two Houses, conducted by managers appointed on both sides, for the purpose of producing concurrence where mutual consent is necessary, or for the purpose of reconciling differences that may have arisen.

Confession is when one party to an action admits the truth of something alleged by the opposing party.

Confirmation is effected by any occurrence or act that renders certain the right of possession or claim of any party with reference to any legal position. Thus, in certain cases, it sometimes happens that the right of a tenant to his holding is doubtful, or the right of the landlord to the rent; but if once rent be paid and received, the respective rights of both parties are confirmed, subject to the conditions under which the rent passed. Confirmation similarly arises under a variety of other circumstances.

Confiscate. Though this word is commonly accepted to mean the deprivation of the holder of anything in his possession, it is not a real confiscation unless the deprivation be in the interest of the Crown. It is a forfeiture inflicted in consequence of some alleged act or omission of the claimant to the property, whereby he has waived or sacrificed his right to his possession.

Conflict of Laws. This arises when a contract is made between a person in one country and a person in another country, and where the laws of the respective countries are in

conflict as to the interpretation to be put upon the contract and the rights of the parties with reference thereto. Such a conflict may also arise in various ways where there is no contract, but where circumstances have brought the interests of the parties into collision.

Conformity. This arises in the administration of an estate, where the executor or administrator files a bill of conformity calling upon the creditors of the deceased to adjust their claims, and undertaking to conform to the decision of the court upon the points that may be in dispute between the creditors.

Confusion of Goods is when property of the same description belonging to two or more persons becomes so mixed that the property of the one cannot be distinguished from that of the other.

Conge d'elire. The licence sent by the Crown (under 25 Hen. VIII. c. 20) to the Dean and Chapter of the cathedral church to proceed to the election of a bishop. This is always accompanied by a letter missive from the king, containing the name of the person whom he would have them elect. If the Dean and Chapter delay the election of such person above twelve days, the nomination devolves to the king, who may by letters patent appoint such person as he pleases. (See "Bishop.")

Conjugal Rights. Where, for any cause, a husband and wife have lived apart contrary to the desire of either of them, the aggrieved party is entitled to judgment in a suit in the Divorce Court to compel the other party to again live with the petitioner, and such is called restitution of conjugal rights. But the law only extends to nominal restitution, evidenced by living together in the same house; there is no obligation as to personal intercourse of any kind.

Connivance is where a person permits or incites another to do a wrong while pretending not to know of the wrong. It frequently arises in divorce cases, where proved connivance of the petitioner in the wrong alleged deprives such petitioner of right to redress. A plea of connivance, if sustained by evidence, is fatal to the case of any petitioner.

Conquest, in Scotch law, is a word accepted to mean the acquisition of dominion over property by will, inheritance, or otherwise.

Consanguineus Frater is the brotherhood between two sons of the same father but of different mothers.

Consanguinity is where two or more persons are blood

relations, or related as descendants of the same stock. The question arises with reference to eligibility for intermarriage, the degrees of consanguinity that exclude eligibility being verbally defined. Thus, for examples, a man cannot marry his aunt though she be younger than himself, but he may marry his aunt's daughter.

Conscience, Courts of. See "Requests, Court of."

Consecration, as popularly understood, is the dedication of a building to religious uses, but the legal effect of consecration of a church is to make it over to the Crown, subject to the law relating to the Church.

Consequential Damage is when one person suffers injury through the act or default of another, not directly out of the act or default itself, but as a secondary consequence of it.

Conservators. See "Thames."

Consideration is an important point in many contingencies, but more especially with reference to settlements and undertakings of various kinds, which are void if there be no consideration, and it must be a good consideration. A good consideration may be affection arising out of relationship, but the best of all good considerations is marriage. Otherwise a consideration may be good because it is valuable, that is, worth money; and where money is given and accepted in good faith, that is generally a consideration good enough to confirm anything.

Consignee is the person to whom goods are voluntarily consigned or delivered, or sent, the giver or sender being the consignor.

Consistory Court is the court of a bishop for the trial of cases arising out of his episcopal jurisdiction. Such a court is usually conducted by the bishop's chancellor, from whose decision there is an appeal to the archbishop of the province. Consistory courts were formerly of much power and importance, but they are now much qualified.

Consolidated Fund. The respective revenue of customs, excise, stamps, and several other taxes, were originally separate and distinct funds, being securities for the sums advanced on each several tax and for them only. But at last it became necessary, in order to avoid confusion, as they multiplied yearly, to reduce the number of these separate funds by uniting and blending them together. There were formerly three capital funds in existence, which had been thus produced by the aggregation of several component parts: the "aggregate" fund,

and the "general" fund, and the "South Sea" fund; the latter being the produce of the taxes appropriated to pay the interest of such part of the national debt as was advanced by the South Sea Company and its annuitants. But in 1787 the public accounts were again newly arranged, by abolishing these divisions and including the whole in one, called the "Consolidated Fund"; which has been since combined with that of Ireland, and forms with it the "Consolidated Fund of the United Kingdom." This fund now comprises the produce of all taxes and duties, added to some small receipts from the royal hereditary revenues and from other sources, and it constitutes almost the whole of the ordinary income of the United Kingdom. The consolidated fund is pledged for the payment of the whole of the interest of the national debt of Great Britain and Ireland. Besides this, it is liable to several other specific charges imposed upon it at various periods by Act of Parliament—such as the "Civil List" and the salaries of the judges and ambassadors and other high official persons; after payment of which the surplus is to be indiscriminately applied to the service of the United Kingdom under the direction of parliament.

Consolidation Rule is a rule obtained where there are several actions arising out of the same subject or course of events; and such a rule, being granted, compels the whole of the plaintiffs and defendants in the several actions to be bound by the decision arrived at upon the trial of one.

Consols. Funds formed by the consolidation (of which word it is an abbreviation) of different Government annuities, which had been severally formed into one capital.

Conspiracy is a combination between two or more persons for the purpose of encompassing the injury of some other person or persons. Conspiracy is unlawful and punishable, even though it be to attain an ostensibly lawful object. The province of conspiracy was formerly regarded by the legal eye as covering a very wide field of contingencies. A combination for almost any purpose was jealously regarded as a conspiracy; hence the rigour and disfavour with which the common law regarded anything in the nature of a company that had not been expressly authorized by charter. These extreme views about conspiracy have been much qualified of late years, partly by new modes for the purpose of incorporating companies and legalizing trade unions, and partly from a more liberal view of the whole subject; but conspiracy for an unlawful object is still a very serious offence, and conspiring to promote a malicious

prosecution involves liability to very heavy damages as well as to penal punishment.

Constable. Constables are of two sorts, high constables and petty constables. The former were first ordained by the statute of Winchester (18 Ed. I.) They are appointed by the court-leets of the franchise or hundred over which they preside, or, in default of these, by the justices at a special sessions, under 7 & 8 Vic. c. 83. They are removable by the same authority that appointed them. The "petty constables" are inferior officers in every hundred and parish, subordinate to the high constable of the hundred.

The chief constable is a modern officer appointed for a county or a parliamentary division of a county by the justices under 2 & 3 Vic. c. 93 and 3 & 4 Vic. c. 88 (made general by 19 & 20 Vic. c. 69). The chief constable, subject to the approval of two or more justices in petty sessions, appoints other constables, and a superintendent to be at the head of the constables in each division. The whole, when sworn in, have all the powers, privileges, and duties which any constable duly appointed has within his constablewick by virtue of the common law or by any statute.

The general duty of all constables, both high and petty, is to keep the peace in their several districts, for which purpose they are armed with very large powers, of arresting and imprisoning, of breaking open houses and the like. One of their principal duties, arising from the statute of Winchester, is to keep watch and ward in their respective jurisdictions. Ward-guard is chiefly applied to the day-time; watch is properly applicable to the night only. The constable may appoint watchmen at his discretion, regulated by the custom of the place; and these, being his deputies, have for the time being the authority of their principal.

By the High Constables Act, 1869 (32 & 33 Vic. c. 47), power was given to the justices of the peace for every county to consider and determine whether it was expedient that the office of high constable of each hundred or other like district within their jurisdiction should be continued; and, in case they determined the question in the negative, to send notices accordingly to the person or persons with whom the appointment of the high constables rested, and in the occurrence thereafter of any vacancy such vacancy is not to be filled up. Provision is made for the chief constable of the county appearing in lieu of the high constable (in case there is no high constable) on behalf of

ny hundred, in cases where formerly the high constable would have appeared. (See also "Borough Constables.")

Constitutional. In the republics of France, Switzerland, and the United States, where in each country the supreme government is based upon a written constitution, the word 'constitutional' means in conformity with the constitution, and 'unconstitutional' is the reverse. In England the words are frequently used, but have no definite significance. In the countries referred to as having written constitutions, especially the United States, every act of the legislature is subordinate to the constitution, which can only be altered by a national convention independent of Congress. Hence Congress can only legislate in conformity with the constitution, and an act repugnant thereto is void, as being, in effect, an alteration of the constitution. In England it is the reverse. Every Act of Parliament is virtually an alteration of the constitution, as the existing statutes are the only bases of the law, to the alteration of which there is no limit. For these reasons, so far as England is concerned, constitutional and unconstitutional have no defined meaning. They mean anything or nothing—usually nothing.

Constructive, as used in legal phraseology, generally means tantamount to. Thus, a constructive fraud is something that may be construed into fraud. It is mostly used as an insinuation against some person or party, or it may mean some form of compact that is contrary to the public good.

Consul is the name of a representative of a foreign nation whose duty it is to act on behalf of his government and countrymen in all matters affecting trade and commerce, as distinguished from an ambassador, whose functions are more of a political character.

Contagious (Venereal) Diseases Acts. The first of these Acts was passed in 1866, and is 29 Vic. c. 35. It applies to Portsmouth, Plymouth and Devonport, Woolwich, Chatham, Sheerness, Aldershot, Windsor, Colchester, Shorncliffe, The Curragh, Cork, and Queenstown. By a further Act of 1869 (32 & 33 Vic. c. 96) the provisions of the Acts are further extended to Canterbury, Dover, Gravesend, Maidstone, and Winchester. The Acts apply not only to those places themselves, but to certain parishes around them specified in the schedules of the above-named Acts. The Acts provide for the appointment of visiting surgeons and assistants; for the provision of certified hospitals and the appointment of inspectors and assistant inspectors of such hospitals. No hospital is to be certified unless

proper provision is made for the moral and religious instruction of the women detained therein. Section 15 of the first-mentioned Act provides that "when an information on oath is laid before a justice by a superintendent of police, charging to the effect that the informant has good cause to believe that a woman therein named is a common prostitute, and either is resident within the limits of any place to which this Act applies, or, being resident within five miles of those limits, has, within fourteen days before the laying of the information, been within those limits for the purposes of prostitution, the justice may, if he thinks fit, issue a notice thereof addressed to such woman, which notice the superintendent shall cause to be served on her." By sec. 16, "In either of the following cases, namely—if the woman on whom such notice is served appears herself, or by some person on her behalf, at the time and place appointed in the notice, or at some other time and place appointed by adjournment; if she does not so appear, and it is shown (on oath) to the justice present that the notice was served on her a reasonable time before the time appointed for her appearance, or that reasonable notice of such adjournment was given to her (as the case may be);—the justice present, on oath being made before him substantiating the matter of the information to his satisfaction, may, if he thinks fit, order that the woman be subject to a periodical medical examination by the visiting surgeon for any period not exceeding one year, for the purpose of ascertaining at the time of each such examination whether she is affected with a contagious disease; and thereupon she shall be subject to such a periodical medical examination, and the order shall be a sufficient warrant to the visiting surgeon to conduct such examination accordingly. The order shall specify the time and place at which the woman shall attend for the first examination. The superintendent of police shall cause a copy of the order to be served on the woman." By sec. 17 any woman may make a voluntary submission in writing to submit to the examination. The visiting surgeon is to prescribe the time and place when and where the periodical examination is to take place. If on any such examination (sec. 20) the visiting surgeon finds a woman to be affected with a contagious disease, he is to sign a certificate to that effect. The woman may then go to the certified hospital named in such certificate; but if she refuses or neglects to do so, the superintendent of police, or a constable acting under his orders, shall apprehend her and convey her to that hospital. The woman is then detained in that

hospital and treated for the disease until she is cured, provided that she is not to be detained in the hospital longer than three months, unless the chief medical officer of the hospital and the inspector of certified hospitals, or the visiting surgeon of the place, conjointly certify that her further detention is necessary, in which case she may be detained for another three months. But no woman could under the Act of 1861 be detained under any one certificate for a longer time in the whole than six months. Any woman detained in a hospital shall (sec. 25), on her request, be conveyed before a justice (if she considers that she is entitled to be discharged and the medical officer refuses to discharge her), who, if he is satisfied upon reasonable evidence that she is free from a contagious disease, may order her to be discharged. If any woman subjected by order of a justice to periodical examination temporarily absents herself in order to avoid submitting herself to such examination, or refuses or wilfully neglects to submit herself to examination on any such occasion ; or if any woman authorized to be detained in a certified hospital quit such hospital without being duly discharged therefrom ; or if any woman lawfully detained in a hospital refuses to conform to its rules—she is liable to a month's imprisonment, and, in case of a second offence, to three months' imprisonment. If a woman be discharged from a hospital uncured, she is liable to a month's imprisonment (or for a second offence, three months') if she is afterwards in any place for the purpose of prostitution. Any woman, subjected to a periodical medical examination, may apply to a justice of the peace to be relieved therefrom, and is entitled to be relieved if she can satisfy the justice that she has ceased to be a common prostitute, or if she enter into a recognizance, with or without sureties, for her good behaviour during three months. Penalties are imposed (sec. 36) on any persons permitting women, whom they have reasonable cause to believe to be common prostitutes, and to be affected with a contagious disease, to resort to any home, &c., under their control for the purpose of prostitution.

The original Act of 1866 was extended, as above mentioned, to other places by 32 & 33 Vic. c. 96, which also (sec. 3) authorizes the detention for a period not exceeding five days of any woman subjected to periodical examination, who from drunkenness or other cause cannot properly be examined ; provided that if she cannot be examined because she is drunk, she is only to be detained twenty-four hours. By sec. 7 the period for which a woman may be detained in hospital is enlarged from six to nine months.

Contagious Diseases of Animals. This subject is elaborately dealt with by an Act of 1878 (41 & 42 Vic. c. 74). It involves the Privy Council, local authorities, cattle-plague, pleuro-pneumonia, foot-and-mouth disease, transit of animals, infected places, slaughter of diseased animals subject to compensation of owners, compulsory notices of disease, order for checking disease, dairies, cow-sheds, milk-shops, foreign animals, regulation of ports, expenses of local authorities, borrowing by local authorities, police duties, inspectors, fines and imprisonment.

Contango is a consideration paid on the Stock Exchange for allowing a settling to stand over, because the party so paying cannot fulfil his contract for the time being.

Contempt of Court. This is of two kinds. Defiance in open court, such as refusing to give evidence, or failing to act with decorum, or denouncing the court or the judge, or disregarding in any respect the lawful rules of the court. The other kind of contempt is disregarding the summons or order of the court, failing to attend as a witness or otherwise when lawfully required to do so, or failing to comply with any order or judgment of the court. In every case of contempt of court there is great discretion allowed, and the powers of inferior courts are indefinite and ill-defined, but the superior courts have great powers of punishment which may be said to be unlimited so far as imprisonment is concerned.

Contentious Jurisdiction is that portion of the office and power of a court that deals with contentious matter, as distinguished from its powers of decision and decree where there is no contention.

Contingent Interest is a reversion to personal property, contingent upon the death of some other person, subject to the survival of the person in whom the contingent interest is.

Contingent Remainder is a landed estate descendible upon some event the occurrence of which is uncertain.

Contraband is literally contrary to ban, all property having formerly been very much at the mercy of the whim of the king, and hence liable to be put under ban. In modern times contraband applies to goods carried in any ship with the object of aiding either of the belligerents engaged in a war. The extent to which contraband may be seized wherever found afloat by either belligerent is not clearly defined in reference to any statement of the law of nations. The whole subject is liable to the chapter of any accidents that may occur.

Contract is a lawful agreement by which two persons or parties are mutually bound to do or refrain from doing something prescribed. There are two kinds of contract—simple and specialty. A simple contract may be effectually entered into verbally, and is called a contract by parol when the amount involved is under £10; but if it amounts to that sum there must be some tangible evidence in writing, not necessarily signed, but put down in black and white in evidence. In land sales a contract is not good without the signature of the party entering into it. All simple contracts must be the subject of a definite and expressed consideration, without which no one is bound, and if both parties are not bound neither is bound. Specialty contracts are those entered into by deed under seal, and a consideration is not then essential, as it is presumed that no one executes a deed without a consideration though it be not expressed.

Contributory is the designation applied to a person who is liable to be compelled to contribute to the assets of a company that is in course of liquidation.

Contributory Negligence is a plea in cases where a person sues for damages in respect of injury done to him by another, which injury it is alleged would not have been inflicted but from the negligence of the sufferer, who contributed to it by his own negligence. This plea is exceedingly common in claims arising against railway companies. Thus, if a person crosses the line and is run over, it may be pleaded that as he had no right or occasion to cross the line, his contributory negligence exonerates the company. To which it may be replied that the company did not take due precautions to prevent him from improperly crossing, and so on, which always turns upon detailed evidence in which there may be much conflict and difficulty.

Conventicle Acts, passed in 1664 and 1670, prohibited the assembly of more than five persons beyond the family living in one house in any place (other than a church of the Church of England) for public worship. For the first offence the offender was to be imprisoned for three months or pay £5; for the second, to be imprisoned six months or pay £10; and for the third, to be transported for seven years or pay £100. The conviction might take place before a single justice of the peace. Repealed in 1812.

Convention Parliament. It is essential to the being of a legitimate parliament that it should be summoned by the sovereign's writ or letter. Hence the two assemblies which at

two critical conjunctures in our history have met to supply the place of a parliament have gone by the name of Convention Parliaments. The first instance of one of these parliaments was the parliament which met at the Restoration. The Lords then met by their own authority; the Commons in pursuance of writs issued in the name of the keepers of the liberties of England by authority of parliament, the surviving members of the Long Parliament having met to give that authority. This parliament sat for about seven months after the Restoration, and enacted many laws, several of which are now in force. The first thing done after the king's return was to pass an Act declaring this to be a good parliament, notwithstanding the defect of the king's writs. Yet it was thought necessary to confirm its Acts in the next parliament by statute 13 Car. II. c. 7, and c. 14. Another instance of a Convention Parliament is afforded by the parliament which met at the Revolution during the vacancy of the throne caused by the flight of James II. On this occasion the Prince of Orange summoned those whom he thought would best represent the nation during the emergency. He assembled the peers and all the members who had sat in the House of Commons during any parliament of Charles II., and to these were added the lord mayor, aldermen, and fifty members of the Common Council of London. This convention agreed to the memorable resolution by which James II. was declared to have abdicated the government. They also passed a bill by which the Crown was settled on the Prince and Princess of Orange, and annexed to this settlement a *declaration of rights*, by which all the points that had lately been in controversy between the king and the people were finally determined.

Convention, the Scotch. After the Revolution of 1688 had been accomplished in England, William and Mary summoned a convention in Edinburgh, which confirmed the joint title of William and Mary to the crown.

Conveyance is the act of transferring property, and also the written document by which the conveyance is effected. It applies in practice to the transfer of landed property only, but the expression equally applies though seldom used with reference to personal property.

Conveyancer is a legal practitioner who expressly lays himself out to prepare and conduct conveyances.

Conveyancing is a branch of legal study and practice to which some lawyers apply themselves exclusively. An Act for further improving the practice of conveyancing was passed in 1882

(45 & 46 Vic. c. 39), which makes elaborate provisions of an original character.

Convict is a person upon whom has been passed judgment of death or penal servitude for felony or treason.

Convict Recusant was the designation formerly applied to one convicted of neglecting to attend the service of the Church of England.

Conviction applies to all who plead guilty as well as to those who are found guilty by a jury.

Convocation is the meeting of the superior and inferior clergy of a province in their two houses, to take counsel as to ecclesiastical matters. Nothing a convocation resolves upon is of any legal effect unless it is confirmed by parliament.

Convoy signifies a ship or ships of war appointed to accompany merchant ships in time of war, to protect them from interference by the enemy.

Coparcenary is the holding of a landed estate as coparceners. When there are daughters and no son, the rule of descent is different to that which gives the preference to the eldest son to the exclusion of his brothers. In the absence of a will or other provision to the contrary, daughters who have no brother take equally as coparceners. This is what occurs in the ordinary course of law. In Kent, where the children of intestates take lands equally, irrespective of age or sex, under the local law of gavelkind, coparcenary also occurs.

Copartnership. See "Partnership."

Cope is the name of a due to the Crown in the nature of a royalty, payable upon the ores extracted from mines worked under the Barmote Courts.

Copyhold. By 4 & 5 Vic. c. 35 (amended by 6 & 7 Vic. c. 23, 7 & 8 Vic. c. 55), 15 & 16 Vic. c. 51, and 21 & 22 Vic. c. 94, a board of "Copyhold Commissioners" was established, and provision made that the future rents, fines, and heriots, and the lord's right in timber, and also (if so expressed) in mines and minerals, may be commuted by an agreement which shall be compulsory on all parties interested in the manor, or in the lands held of the manor; provided the parties to such agreement be respectively interested in such manor and lands to the extent of at least three-fourths in value, and the number of the tenants be at least three-fourths of the whole; and also provided that all ecclesiastical and other corporations and patrons of livings, interested in such manner as mentioned in the Act, be parties to the agreement; and that it be afterwards

confirmed by the copyhold commissioners. The Acts also authorize that commutation be, in like manner, made between the lord of the manor and any one or more of the tenants, whatever may be the amount of their respective interests. They also, with the view of facilitating *enfranchisement*, provide that it shall be lawful for the lord of any manor, whatever may be his interest therein, with consent of the commissioners, to enfranchise all or any of the lands holden of his manor in consideration of such sum or sums of money, whether payable forthwith or at a future time, as shall be agreed to be paid by the tenants whose lands are to be enfranchised; or in consideration of a conveyance of lands, or of a right to mines or minerals; or of the grant of a rent charge on the land to be enfranchised; and that it shall be lawful for any tenant (whatever his interest) with the like consent to accept such enfranchisement. And even independently and in the absence of any mutual agreement it is now further enacted (by 15 & 16 Vic. c. 51, and 21 & 22 Vic. c. 94) that it shall henceforth be lawful for any tenant or lord of any copyhold lands to *require* and *compel* enfranchisement—the consideration payable to the lord in that behalf being ascertained (unless the parties can agree) under the direction of the copyhold commissioners. And such consideration shall consist, where the enfranchisement is at the instance of the tenant, of a given sum of money; or where it is at the instance of the lord, of a rent charge issuing out of the lands enfranchised; though by agreement between the parties either of these two modes of compensation may in either case be adopted. It is also provided that the expense of a compulsory enfranchisement shall be borne by the party (whether the lord or the tenant) requiring the same.

Copyright. The exclusive right which the law allows an author of printing and reprinting, publishing and republishing, his own original work. The right of authors in this respect was not clearly ascertained until a comparatively late period in our legal history. But in the reign of Anne it became at length the subject of positive regulation; for by 8 Anne c. 19 (amended by 15 Geo. III. c. 53, and 41 Geo. III. c. 107) it was enacted that the author of any book and his assigns should have the sole liberty of printing and reprinting it “for the term of fourteen years and no longer.” And his right in this respect was protected by the imposition of penalties and forfeitures on all those by whom it might be infringed; with a further direction that, if at the end of that term the author himself should be living, the

right should then return to him for another term of the same duration. The true nature and extent of copyright were not, however, definitely settled by the statute of Anne, for it was left in uncertainty whether, at the common law and independently of that statute, an author did not possess an exclusive privilege (and that without any limitation in point of time) of publishing and republishing his own works, and whether, supposing that he did, the statute had not permitted that privilege to remain without abridgment. These questions were not set at rest till 1744, when it was solemnly decided that, supposing any exclusive privilege to have belonged to authors at the common law, it was at any rate taken away by the statute of Anne, which thenceforth constituted the only basis on which a claim to copyright could rest, and consequently restrained it to the period of limitation provided by the Acts.

The period of literary proprietorship was extended by 54 Geo. III. c. 156, which conferred upon the author the exclusive right for twenty-eight years instead of fourteen; and in the event of his surviving that term, then for the residue of his natural life. This subject, however, is now mainly regulated by 5 & 6 Vic. c. 45, which, after repealing the above-mentioned Acts, provides still more amply in favour of literature by an enactment that the copyright of every *book*—under which word is included “every volume, part or division of a volume, pamphlet, sheet of letterpress, sheet of music, map, chart or plan, separately published”—which shall be published in the lifetime of its author, shall endure for his natural life and for seven years longer; or if the seven years shall expire before the end of forty-two years from the first publication, shall endure for such period of forty-two years; and that when the work is posthumous the copyright shall endure for forty-two years from the first publication, and shall belong to the proprietor of the author’s manuscript. The statute also entitles the proprietor of the copyright in a book lawfully printed within the British dominions to a remedy by action, to be commenced within twelve calendar months; and as to those unlawfully reprinted in any place out of the British dominions, and imported into the United Kingdom, provides that they may be seized as forfeited by any officer of the customs or excise, and that the offenders shall be liable to penalties. It also authorizes in any case of copyright the registration of the title of the proprietor at Stationers’ Hall, and provides that without previous registration no action shall be commenced, though an omission to register

is not otherwise to affect the copyright itself. The Act contains moreover a provision reciting that it is "expedient to provide against the suppression of books of importance to the public," and enacting that it should be lawful for the judicial committee of Her Majesty's Privy Council, on complaint made to them that the proprietor of the copyright in any book, after the death of the author, has refused to republish or allow the republication of the same, and by reason thereof the book may be withheld from the public, to grant a license to such complainant to publish the book, subject to such conditions as they may think fit.

The remedy in cases of infringement of copyright is not only by action and injunction at the common law, but relief is also afforded by courts of equity, which will interfere by an order of injunction, after the title has been registered, to restrain the commission of any projected piracy. It may be remarked, too, that a copyright is assignable. The assignment need not be made in every case under the seal of the proprietor, but if properly entered in the book of registry at Stationers' Hall shall be as effectual as if made by deed. No copyright can exist in a book of an immoral, seditious, or blasphemous character. The sovereign has the sole right of promulgating all acts of state and government, as Acts of Parliament, proclamations, and orders in council. The Crown has also the same prerogative with regard to the liturgies, the books of divine service, and the authorized translation of the Bible. These privileges are held moreover to extend to the Crown's grantees, in which capacity the universities of Oxford and Cambridge, within their respective jurisdictions, claim the right of printing the Bible and the Book of Common Prayer, and Acts of Parliament and acts of state. These universities also enjoy, by 15 Geo. III. c. 53, the sole right of printing for ever at their own presses all books of which the copyright has been bequeathed, or otherwise given, to them or their respective colleges in perpetuity; and a similar right belongs to the colleges of Eton, Westminster, and Winchester.

As regards *oral lectures*, it is provided by 5 & 6 Will. IV. c. 65 that the sole liberty of printing and publishing any such lecture, of the intended delivery of which notice in writing shall have been given to two justices, living within five miles of the place of delivery, two days before it is delivered, is secured to the lecturer. *Dramatic pieces* and *musical performances* are also under a legislative protection peculiar to themselves; it being provided by 3 & 4 Will. IV. c. 15, and 5 & 6 Vic. c. 45, secs. 20, 21, that

the authors of such productions shall have as their own property the sole right of bringing them out on the stage.

The law also recognizes a species of copyright in some other productions of genius. For by 8 Geo. II. c. 13, 7 Geo. III. c. 38, and 17 Geo. III. c. 57, an exclusive privilege of the same description (in general) may be claimed by the inventor in *engravings and prints*; by "The Sculpture Copyright Acts" in *sculptures, models, copies, and casts*; by "The Designs Acts," 1842, 1843, and 1850, "The Protection of Inventions Act," 1851, and "The Copyright of Designs Act," 1858, in *designs for articles whether of ornament or utility*; and by 25 & 26 Vic. c. 68, in *paintings, drawings, and photographs*.

Protection also, under certain conditions, is afforded to literary and other productions, though first published in a foreign country; and this subject of *international copyright* is now regulated by 7 & 8 Vic. c. 12, and 15 & 16 Vic. c. 12, whereby, among the regulations, it is provided, that by order in council, Her Majesty may, as respects *books, prints, articles of sculpture and other works of art* which shall be, after a future time specified in such order, first published in any foreign country to be named in such order, allow the respective authors, inventors, designers, engravers, or makers and their personal representatives, privilege of copyright therein for any period not exceeding the term for which like productions would be protected if first published in the United Kingdom, and may, as regards *dramatic pieces and musical compositions*, which shall be, after a future time specified in such order, first publicly represented or performed in any foreign country named in such order, allow the authors to have the sole liberty of representing and performing them within the British dominions during any period not exceeding the time during which they would be entitled by law to such sole liberty, if the first representation or performance had been in the United Kingdom. And also, that by order in council Her Majesty may, as regards *translations* of books first published, or of *dramatic pieces* first publicly represented, in any foreign country, direct that the authors thereof shall be empowered to prevent the publication in the British dominions of any translation of such books, or the representation of any translation of such dramatic pieces, not authorized by them, for such time as shall be specified in Her Majesty's order, not extending beyond five years from the time at which authorized translations shall be first published or represented respectively. Provision, however, is made that no such order shall take effect unless,

on the face of it, it be grounded on a due reciprocal protection secured by the foreign power therein named, for the benefit of parties interested in works first published in this country; nor unless, within a limited time, the work sought to be protected be duly registered, and a copy thereof, if it be a book, a print, or a printed dramatic piece or musical composition, deposited at Stationers' Hall; nor (in the case of translations) unless the original work be registered and a copy deposited in the United Kingdom, in the manner required for original works as above mentioned; nor unless the author notifies on the title-page his intention to reserve the right of translation; nor unless a translation, sanctioned by the author, be published within certain limited periods; nor unless such translation be registered, and a copy thereof deposited, as in the case of original works.

Three Acts were passed in 1875 on the subject of copyright. 38 Vic. c. 12 is to amend the law relating to international copyright. 38 & 39 Vic. c. 53 relates to copyright with reference to Canada. 38 & 39 Vic. c. 93 has special reference to sculpture.

Copyright in Music. By an Act of 1882, to amend the law of copyright relating to musical compositions (45 & 46 Vic. c. 40), it is provided that the author of a piece of music who wishes to control its performance in public must print a notice on the title-page that the right of public representation or performance is reserved. In case the right of publication is vested in one person and the right of performance in another, the latter is entitled by written requisition to compel the publisher to print or notice on the title-page that the right of performance is reserved, and the publisher is liable to a penalty of £20 for neglect to comply.

Copyright of Designs. This subject is dealt with afresh by the Patents, Designs, and Trade Marks Act, 1883. It provides that copyright in designs is to be secured by registration at the Patent Office. The same design may be registered in more than one class. In case of doubt as to the class in which a design ought to be registered, the comptroller of patents may decide the question. The applicant must furnish drawings, photographs, or tracings as required. All requirements being complied with, the comptroller must grant a certificate of registration, and if a certificate be lost there is provision for granting a copy. The certificate is evidence of the copyright having been secured, but not of its continuance; for if the mark be omitted from the articles to which it is

stated to apply, the copyright lapses unless the omission be accidental and exceptional. Exhibited designs that are not registered may be temporarily protected by giving notice of intention to register, which notice becomes void in six months.

The use of the word "registered," when registration has not been duly effected, involves a penalty of £5 for every offence.

Co-respondent, in a broad sense, is one of two or more parties who are jointly made defendants, but the expression is limited in practice to the second party to an alleged adultery in a divorce case.

Corn Rents are rents that vary according to the published price of corn. They were first devised in 1576, and were then made enforceable upon leaseholders under colleges in consequence of the great advance in prices having reduced the relative value of money rents. Some farms are probably still held under corn rents, but the custom has fallen out of favour.

Corn Returns. By the Corn Returns Act, 1882, the Board of Trade is empowered to nominate not less than 150 towns, nor more than 200, where corn returns are to be made. Every person engaged in the British corn trade in these towns is required to make returns by the bushel. London, within a radius of five miles from the Royal Exchange, is included so far only as persons are concerned who carry on the business of corn-factors, or who buy any British corn within the Corn Exchange, Mark Lane, or within any building used as a corn exchange. The penalty for omitting to make a required return is £20, and making a false return is a misdemeanour subject to criminal proceedings. The main object of these returns is to meet the requirements of the Tithe Commutation Acts, but the returns have also great economic value.

Corody was an allowance of kind or cash made payable by a religious house for the maintenance of a nominee of the Crown.

Coronation Oath. At the public and solemn ceremony of crowning or investing the sovereign of this kingdom with the insignia of royalty, in acknowledgment of his right to govern the kingdom, the sovereign swears to observe the laws, customs, and privileges of the kingdom, and to act and do all things conformably thereto. The oath is as follows:—The archbishop or bishop shall say: "Will you solemnly promise and swear to govern the people of England, and the dominions thereunto belonging, according to the statutes in parliament agreed on, and the laws and customs of the same?" The king or queen shall say: "I solemnly promise so to do." Archbishop or bishop: "Will you

to the utmost of your power cause law and justice, in mercy, to be executed in all your judgments?" King or queen: "I will." Archbishop or bishop: "Will you to the utmost of your power maintain the laws of God, the true profession of the gospel, and the Protestant reformed religion established by the law? And will you preserve unto the bishops and clergy of this realm, and to the churches committed to their charge, all such rights and privileges as by law do or shall appertain unto them or any of them?" King or queen: "All this I promise to do." After this the king or queen, laying his or her hand upon the Gospels, shall say: "The things which I have here before promised I will perform and keep, so help me God," and then shall kiss the book.

Coroner. The office of coroner is a very ancient one at common law. He is called coroner (*coronator*) because he has principally to do with pleas of the Crown, or such wherein the sovereign is more immediately concerned.

The coroner is chosen by the freeholders of the county at a county court held for that purpose by the sheriff. For this purpose there is a writ at common law—*de coronatore eligendo*. Originally none but lawful and discreet knights were eligible for the office; but subsequently it was thought sufficient if a man had lands enough to be made a knight—that is, lands to the amount of £20 a year.

By 7 & 8 Vic. c. 92, county coroners may be appointed for a district within a county, instead of for the county at large, if the county, shall have been duly divided into districts for that purpose. By this Act, and by 23 & 24 Vic. c. 116, provisions are made as to the manner of their election, and by the latter Act all former provisions for the remuneration of county coroners by fees, mileage, and allowances are repealed, and in lieu thereof they are to be paid by salary; and if any coroner shall refuse or neglect to hold an inquest, it shall be lawful for the attorney-general to apply to the Court of Queen's Bench for a rule to show cause why such inquest should not be held. With respect to the election of coroners, however, it is to be observed that the Crown, and certain lords of franchises having a charter from the Crown for that purpose, may appoint coroners for certain precincts and liberties, by their own mere grant and without election; and by 5 & 6 Will. IV. c. 76, secs. 62 & 64, the council of every borough in which a separate court of quarter sessions shall be held shall appoint a fit person to be coroner for the borough; but in other boroughs the coroner for the county at large is to act.

The coroner is chosen for life, and the office and power of a coroner are like those of the sheriff, either judicial or ministerial, but principally judicial, in inquiring, when any person is slain, or dies suddenly or in prison, concerning the manner of his death. When such a death happens, it is the duty of the township to give notice of it to the coroner; upon which he is to issue a precept to the constables of the four, five, or six next townships to return a competent number of good and lawful men to appear before him at such a place, to make an inquisition concerning the matter. This inquisition must be held before the coroner as presiding officer, and the court held before him on this occasion is a court of record. The jury—who must consist of twelve at the least—are to be sworn, and charged by the coroner to inquire how the party came by his death. The inquisition must be had *super visum corporis*; for, if the body be not found, the coroner cannot sit, except by virtue of a special commission for that purpose. By the common law he was also to sit at the very place where the death happened, though not necessarily at the same place where the body was viewed; for the jury might adjourn elsewhere to see the body if found more convenient. But now by 6 & 7 Vic. c. 12 it is provided, that the coroner only within whose jurisdiction the body shall be lying dead shall hold the inquest, though the cause of death may not have arisen within his jurisdiction. And that in the case of any body found dead in the sea, or any creek, river, or navigable canal within the flowing of the sea (where there shall be no deputy-coroner for the jurisdiction of the Admiralty of England), the inquest shall be held only by the coroner having jurisdiction in the place where the body shall be first brought to land.

Upon this inquisition, the coroner and jury must hear such evidence as is offered, either on the part of the Crown or of any person suspected of having caused the death, and the evidence is to be given upon oath. The coroner has power to order the attendance of the doctor who attended the deceased, and where the deceased was not so attended he may require any other medical man in actual practice and residing in the neighbourhood to be present. He may also direct a *post mortem* examination to take place if he thinks it necessary. The inquisition must be found with the concurrence of at least twelve of the jury, and it will not be quashed on account of any merely technical defects. If by such inquisition any person be found guilty of murder or other homicide, it is the duty of the coroner

to commit him to prison for trial, and to make inquiry concerning his lands, goods, and chattels, which may become liable to forfeiture; he must, moreover, certify the whole of this inquisition under his own seal and the seals of the jurors, together with the evidence thereon, to the Court of Queen's Bench or the next assizes. By 7 Geo. IV. c. 64, sec. 4, every coroner, upon an inquisition before him taken, whereby any person shall be indicted for manslaughter, or murder, or as an accessory to murder before the fact, shall put in writing the evidence or so much thereof as shall be material. Further, by the same Act, he has authority to bind by recognizances all such persons as know or declare anything material touching such offence, to appear at the next court of oyer and terminer and gaol delivery at which the trial is to be, then and there to prosecute and give evidence against the party charged; it is, moreover, his duty to certify and subscribe the same evidence and all such recognizances, and also the inquisition, and deliver the same to the proper officer of the court in which the trial is to be, before or at the opening of the court. If a verdict of manslaughter be given against any party, the coroner, under 22 Vic. c. 38, may at his discretion accept bail, with sufficient sureties for the person so charged, for his appearance to take his trial at the next assize and general gaol delivery for the county.

Another branch of the coroner's office is to inquire concerning shipwrecks, and certify whether wreck or not, and who is in possession of the goods. He is also to inquire who were the finders of treasure trove, and where it is, and whether any one be suspected of having found or concealed a treasure.

Corporation. Corporations are of two kinds—aggregate and sole. A corporation aggregate consists of several persons mixed together into one society, and is kept up by a perpetual succession of members so as to continue for ever—such as the mayor and corporation of a borough, the dean and chapter of a cathedral. A corporation sole consists of one person and his successors in some particular station, incorporated by law so as to enjoy certain legal capacities and advantages, particularly that of perpetuity. In this sense the sovereign is a corporation sole; so is a bishop, and a parson or vicar.

A corporation is created by royal charter, by special Act of Parliament, or pursuant to the provisions of some general Act of Parliament. (As to these last, see sub-title "Company.") It may also exist by prescription, in which case a royal charter is supposed to have been granted in times whereof the memory of

man runneth not to the contrary, and to have been since lost. A corporation when formed acquires many powers, rights, capacities, and incapacities. 1. It may purchase lands and hold them to it and its successors, just as natural persons may, to hold them to them and their heirs; subject, however, to the statutes of mortmain (see sub-title "Mortmain, Statutes of"). 2. It is subject in general to certain statutory restrictions with regard to the alienation and the letting of its lands. 3. The following apply to corporations aggregate; such a corporation may sue or be sued, implead or be impleaded, grant or receive, and do all other acts by the corporate name. 4. It is amenable to such judgments as may be given against it in any writ, to the extent of its corporate property only, and not so as to fix any personal liability on the persons composing it. 5. Its acts must be under its common seal. 6. It may make bylaws or statutes for the better government of the corporation. 7. It is subject to certain disabilities—it must always appear by attorney; it cannot be executor or administrator, or perform any personal duties; it cannot be seized of lands to the use of another; it can in general be guilty of no crime, yet it is liable in some cases to an indictment, as where it allows a bridge, the repair of which belongs to it by law, to fall into decay. It is, moreover, capable of suing or being sued for breach of contract, and for many other kinds of civil injury, as for a libel. It is not liable to be summoned into an ecclesiastical court. Aggregate corporations, that have by their constitution a head—as a dean, master, or the like—cannot do any acts during a vacancy of the headship, except appointing another. 8. Another incident of corporations aggregate is, that the act of the major part is esteemed the act of the whole body. 9. Another is to have the power of electing their own members or officers and thus perpetuating their own succession. 10. A corporation aggregate may also take goods and chattels for the benefit of themselves and their successors; but a corporation sole cannot take goods in his corporate capacity.

These capacities and incapacities belong as of course to all bodies corporate, and result from the mere act of incorporation without any mention being made of them in the charter. On the other hand, persons unincorporated, however closely connected they may be by social position or by express compact, no not enjoy these capacities, and are not subject to the incapacities. Unless incorporated, such persons are nothing more than so many private individuals in point of law. They may hold real

or personal property, but they hold it in common to them and their heirs, or to them and their executors and administrators, as the case may be. They may sue or be sued, but only as so many private individuals, and not as one body. If a judgment be given against them, each is individually liable to the extent of his private property. Thus the trustees of a dissenting chapel may purchase and hold lands, but they do so as A. B. and C., to hold to them and their heirs subject to certain trusts agreed upon among themselves. If they sue or are sued, it must be simply as A. B. and C. In short, such bodies as "The trustees of — chapel," "The master and tutors of — school," "The proprietors of — colliery," and so forth, have, unless incorporated, no legal existence, and are incapable as such of any legal act.

A corporation may be dissolved—1. By Act of Parliament. 2. A corporation aggregate may be dissolved by all its members dying without duly electing their successors; so that, if a corporation has lost such an integral part of its members as is necessary, according to its charter, to the validity of corporate elections, it must come to an end, for it has lost the power of continuing its existence. 3. By surrender of its franchises into the hands of the sovereign, which is a kind of suicide. 4. By forfeiture of its charter, through negligence or abuse of its franchises. The regular course in such a case is to bring an information in the nature of a writ of *quo warranto*, to inquire by what warrant the members now exercise their corporate power, having forfeited it by such and such proceedings. The exertion of this act of law for purposes of state in the reigns of Charles II. and James II.—particularly by revoking the charter of the city of London—gave great and just offence; though perhaps, in strictness of law, the proceedings were sufficiently regular. (See Hallam's "Constitutional History," vol. ii. p. 458.) But the judgment against the charter of the city of London was reversed by Act of Parliament after the Revolution, and by the same statute it was enacted that the franchises of the city of London should never more be forfeited for any cause whatever.

The Municipal Corporations Act, 1882, consolidates the law with reference to all municipal corporations except that of the city of London. It is divided into thirteen parts, which are thus classified: Preliminary; Constitution and Government of the Borough; Preparations for and Procedure at Elections; Corrupt Practices and Election Petitions; Corporate Property

and Liabilities; Charitable and other Trusts and Powers; Borough Fund; Borough Rate; County Rate; Administration of Justice; Police; Freemen; Grant of Charters; Legal Proceedings; General. The Act extends to ninety-six pages, and goes into much detail under every head.

The Municipal Corporations Act, 1883, provides that on and after March 25, 1886, or not later than September 29 of the same year, Her Majesty in Council may in the case of any place or places appoint that all civil, criminal, and Admiralty jurisdiction of any corporate officer, court, or judge of the said place appointed or holding office under any charter, grant, or prescription shall cease, whether such jurisdiction is conferred by such charter, grant, or prescription, or by any Act, and the place shall be subject to the same jurisdiction as the part of the county in which it is situate, or to which it adjoins, and if it adjoins more than one county or part of a county, then as to the county or part with which it has the longest common boundary; and all exclusive rights of trading, local exemptions from juries, and other local franchises, privileges, and exemptions existing under any charter or grant or prescription shall cease. The same Act gives Her Majesty in Council, at the same dates, power to abolish the corporations of seventy-four places enumerated in the schedules of the Act, with special provisions for granting new charters to twenty-five of such places should further inquiry justify such a course with reference to each place respectively.

Corporeal Property is that which can be handled or exclusively possessed, as a house, field, fence, or table, as distinguished from incorporeal property, such as a right of way, or of water, or of light.

Corpus is an old term applicable to capital or possession as distinguished from interest or income.

Corpus Delicti signifies the established fact that a crime has been committed, without reference to who committed it.

Corpus Juris Canonici, the Roman Canon Law.

Corpus Juris Civilis, the Roman Civil Law.

Correction, House of. See "Prison."

Corrupt Practices at Elections. These are to a considerable extent dealt with by the Parliamentary Elections Act, 1868.

The Corrupt and Illegal Practices Prevention Act, 1883, places what are called "corrupt practices" on a new footing. Its operation is limited as to time from Oct. 15, 1883, to Dec. 31,

Under £10. When under £10 is recovered in other than a superior court when the action was triable in county court.

For making and serving copies of process in causes under £10 in superior courts and under 40s. in inferior courts.

When special jury is applied for.

In actions in another part of the kingdom where judgment might have been registered.

In superior court where under £20 recovered in action on contract, and under £10 in action on tort, unless certified or allowed.

In Admiralty or superior court, in admiralty cases where amount recovered was recoverable in county court, and in salvage cases under £1000.

Special Allowance. In most cases the judge has power to award costs contrary to the above rules if he thinks the circumstances warrant such an exercise of his authority.

Taxed Costs. In all cases where costs are payable by the opposite party, the bill is liable to be what is called "taxed," that is, submitted to a taxing master, who has power to strike out all items he considers unreasonable and to reduce those he considers extravagant in amount, whereby it sometimes happens that a plaintiff who has recovered a judgment for damages and costs finds that the damages are not sufficient to pay the items and extras taxed out by the taxing process, which items and extras such plaintiff is usually liable upon to his own solicitor.

Between Party and Party are those costs for which one party is liable to another, subject to the taxation before referred to.

Between Attorney and Client are those costs which are incurred by the attorney at the request of the client over and above what the taxing master allows.

Special Disallowance. In many cases the judge has power at his discretion to disallow costs as between party and party, even though they are not prohibited by the foregoing summary.

Counsel is the barrister charged with the conduct of a case, or one of several engaged upon the same case.

Count. The sections of an indictment are called counts.

Counterfeit Medals. See "Medals."

Counterpart is the copy of a document duly executed in common with the original.

Counting-out. Forty members form a House of Commons; and, though there be ever so many at the beginning of a debate, yet if, during the course of it, the House should be deserted by the members till reduced below the number of forty, any one

member may move that the House be counted. The speaker then turns a glass which is kept by him for that purpose, and when the sand has run out he proceeds to count. If there are not then forty members present, he adjourns the House. A debate may, however, be continued so long as there is one member left in the House, provided no one chooses to move to have the House counted.

County, in British geography, originally signified the territory of a count or earl, but is now used in the same sense with *shire*, the one word coming from the French and the other from the Saxon.

County Corporate. To certain cities and towns the sovereigns of England have, out of special grace and favour, granted the privilege to be counties of themselves, and not to be comprised in any other county, but to be governed by their own sheriffs and other magistrates, so that no officers of the county at large have any power to intermeddle therein. These are Canterbury, Chester, Coventry, Gloucester, Kingston-upon-Hull, Lincoln, London, Newcastle-upon-Tyne, Poole, Worcester, York and Ainsty, Southampton, and Carmarthen.

County Courts. There are two sorts of county courts—the old common law county court, and the modern statutory county court. The old common law county court exists in every county, and is incident to the jurisdiction of the sheriff. (See sub-title “Sheriff.”) It is not a court of record, but might, until the introduction of the new statutory county court, hold pleas of debt or damages under the value of 40s., and entertain all personal actions to any amount by virtue of a special writ called a *justicies*—a writ empowering the sheriff, for the sake of dispatch, to do the same justice in his county court as might otherwise be had in the courts at Westminster. The freeholders of the county are the real judges in this court, the sheriff being the president only, and the officer to carry its decisions into execution. In former times all Acts of Parliament at the end of every session used to be published in the county court by the sheriff; all outlawries are there proclaimed; all popular elections which the freeholders are to make—as formerly of sheriffs and conservators of the peace, and still of coroners, verderers, and knights of the shire—must ever be made in *pleno comitatu*, or in full county court. In Saxon times the county court was a court of great dignity and splendour; the bishop and the calderman (or earl), with the principal men of the shire, sitting there to administer justice, in both lay and ecclesiastical causes. Its dignity, however,

became much impaired when the bishop, after the Conquest, was prohibited, and the earl in time neglected, to attend it. In modern times but little resort was paid to it as a court for the recovery of debt or damages. Its jurisdiction in this respect—except perhaps in the case of a writ of *justicies*—seems to be now superseded by the new county courts.

These courts, which seem to be a graft upon the common law county courts, were first established by 9 & 10 Vic. c. 95, which gave power to Her Majesty in council to establish them in such counties as should be thought fit; which was accordingly done by an order in council of 9th March, 1847; and by the same order, as well as by the authority of the Lord Chancellor under a subsequent Act, a certain number of districts were appointed in which the county courts are to be held. In each of such districts, and at certain towns and places therein, the county court is held at least once a month, or at such other interval as may be directed by a principal secretary of state, and it is constituted a court of record. In each district there are one or more judges, with registrars and other officers. A suit may be commenced in any district in which the defendant, or one of the defendants, dwells or carries on business at the time; or (by leave of the court) in any district in which he shall have dwelt or carried on business within six calendar months before; or (by the like leave) in any district in which the cause of action arose, without regard to the place of residence or business.

The modern county courts have a *legal*, an *equitable*, and what may be termed a *miscellaneous* or *extraordinary* jurisdiction. We will first deal with the legal jurisdiction. This, in general, includes personal actions, where the debt, damage, or demand claimed is not more than £50, whether on balance of account or otherwise. Originally, by sec. 58 of 9 & 10 Vic. c. 95, it was provided that no county court should have cognizance of any action of ejectment, or in which the title to any corporeal or incorporeal hereditament, or to any toll, fair, market, or franchise shall be in question, or in which the validity of any devise, bequest, or limitation under any will or settlement may be disputed, or for any malicious prosecution, or for any libel or slander, or for criminal conversation, or for seduction or for breach of promise of marriage. But now, by sec. 12 of 30 & 31 Vic. c. 142, actions in which the title to corporeal or incorporeal hereditaments comes in question may, subject to appeal, be brought in a county court where neither the value nor the rent of the lands, &c., in dispute exceeds £20 by the year; or in case

of an easement or licence, where neither the value nor the reserved seat of the lands, tenements or hereditaments, in respect of which the easement or licence is claimed, shall exceed £20 by the year. With the limitations above mentioned, a county court has all the jurisdiction that is enjoyed by one of the superior courts of common law. The jurisdiction is protected by enactments, by virtue of which any person recovering in a superior court a sum not exceeding £20 in an action of contract, or not exceeding £10 in an action of tort, does not get his costs, unless the judge before whom the case was tried certifies that it was a fit and proper case to be tried in the superior court. It has also been recently provided, that if an action of contract be brought in a superior court, where the amount claimed is less than £50, or is reduced by payment into court as an admitted set-off to a less sum, either party may take out a summons before a judge at chambers, calling on the opposite party to show cause why the issue raised in the action should not be referred for trial to a county court, and the judge has thereupon power, if he thinks fit, to order that the issue in such action be tried in the county court accordingly. Moreover, by sec. 10 of 30 & 31 Vic. c. 142, a judge of a superior court in which an action for malicious prosecution, illegal arrest, illegal distress, assault, false imprisonment, libel, slander, seduction, or any action of tort may be brought, may either stay the proceedings or remit them to a county court, unless the plaintiff give security for costs, or satisfy him that it is a fit action to be tried in a superior court.

The process of the county court in all legal actions (as distinguished from equitable suits, of which mention will afterwards be made) is by plaint and summons; and where no jury is required by either party, the duty of deciding questions both of fact and law is vested in the judge alone. In cases, however, in which the amount claimed exceeds £5, either party may require a jury to be summoned to try the action. The jury so summoned consists of five persons. The proceedings in the trial now substantially vary from those adopted in the courts at Westminster in one material exception only, viz., that where there is a judgment for the plaintiff for a sum not exceeding £20, the judge has the power of ordering that the sum recovered shall be paid by instalments. In all other cases he must order the claim to be paid forthwith, or within fourteen clear days, unless the plaintiff consents to receive it by instalments.

In all actions in which the debt or damage sought to be

recovered is above £20, or in which title is in question; in actions of replevin where the rent or damage exceeds £20; in actions for the recovery of tenements where the yearly rent or value of the premises exceeds £20; in all actions of ejectment; and in proceedings in interpleader, where the money claimed or the value of the goods claimed exceeds £20, and in all actions where the parties agree that the court shall have jurisdiction, there is an appeal as of right. In these actions, if either party be dissatisfied with the determination or direction of the judge *in point of law*, or upon the admission or rejection of any evidence, he may appeal from the county court to any one of the superior courts of common law at Westminster. He may in other cases appeal by consent of the judge under 30 & 31 Vic. c. 142, sec. 13. No appeal, however, lies against the decision of the judge on *questions of fact*, or if, before the decision of the county court be pronounced, both parties agree in writing that the decision of the judge shall be final. The party appealing must give notice of his intention to appeal within ten days after the delivery of the judgment appealed against, and must give security for the costs of the appeal. (As to the power of the county court judges to commit to prison for non-payment of debts, see title "Debt, Imprisonment for.")

An *equitable* jurisdiction is also conferred in county courts by sec. 22 of 9 & 10 Vic. c. 95; under which a county court judge may be required to perform all such duties relating to causes or matters depending in Chancery, necessary or proper to be done in his district, as the Lord Chancellor may direct. By 28 & 29 Vic. c. 99, the county courts exercise all the power and authority of the Court of Chancery in administration suits, suits for the execution of trusts, foreclosure or redemption, enforcing any charge or lien, specific performance, reformation, delivering up or cancelling of any agreement for the sale, purchase, or lease of property, and the dissolution or winding-up of a partnership, and in proceedings under the Trustee Relief or Trustee Acts, or relating to the maintenance or advancement of infants, or for orders in the nature of injunctions in certain cases. The jurisdiction is limited to £500, and is subject to appeal. By sec. 8 of 30 & 31 Vic. c. 142, the Court of Chancery may transfer to a county court any suit or proceeding which might have been commenced in it.

The county courts have certain special jurisdiction under the Metropolitan Building Act (18 & 19 Vic. c. 122); with regard to friendly, industrial, or provident societies; with regard

to bankruptcy (see title "Bankruptcy"), and under the Copyright of Designs Act, 1852. A considerable *admiralty jurisdiction*, moreover, has recently been conferred on the county courts.

By an Act of 1882 (45 & 46 Vic. c. 57) some doubts as to payment for appearing on behalf of another are cleared up as follows: "No person other than a solicitor of the Supreme Court shall be entitled to have or recover any fee or reward for appearing or acting on behalf of any other party in any proceeding in a county court; provided always, that nothing in this Act contained shall affect the right of any barrister-at-law to appear or act in any county court, or of any solicitor of the Supreme Court to recover costs in respect of his employment of a barrister-at-law to appear or act as aforesaid." The Act further provides that "It shall be in the power of the judge of a county court to award costs on the higher scale to the plaintiff on any amount recovered, however small, or to the defendant who successfully defends an action brought for any amount, however small, provided the said judge certify that the action involved some novel or difficult point of law, or that the question litigated was of importance to some class or body of persons or of general public interest."

County Franchise. The parliamentary franchise necessary to constitute a voter for a county member of parliament under the Act of 1867 was settled as follows:—

Freeholders to the value of not less than 40s. per annum.

Leaseholders for terms originally not less than 60 years, where the annual value is not less than £5.

Rated occupiers where the annual value is not less than £12.

The qualification for ratepayers, to be effectual, must have subsisted for twelve months prior to the 15th of July in the year when the person qualified becomes entitled to be on the register.

County Palatine. This designation applies to each of the counties of Chester, Durham, and Lancaster, because, at the palaces of the Earl of Chester, the Bishop of Durham, and the Duke of Lancaster, the respective peers had special jurisdiction, having the exceptional power of issuing writs and indictments in their own respective names in lieu of the name of the king, with power of pardon with reference to felony, murder, and treason. Some of the powers of these courts were continued until 1873, but were then abolished with the exception of the Chancery Court of Lancaster, which is expressly continued.

County Rate. There are various expenses to which

parishes, as integral portions of counties, are liable, for which it was the custom formerly to make separate rates; but the great inconvenience of making distinct rates for these purposes induced the legislature, by 12 Geo. II. c. 29, to provide that one general fund for the whole should be raised, called the county rate, under the direction of the county justices. The principal purposes to which the county rate is now principally applicable are as follows:—

Repairing county bridges and highways adjoining.

Coroners' fees.

Carrying prisoners to gaols and houses of correction.

Salary of chaplain and officers and setting prisoners to work.

Expenses relating to insolvents, court-houses, &c.

Providing county lunatic asylums.

Fees of gaolers and other officers.

Burying dead bodies cast on shore.

Expenses of prosecutions.

Treasurer's salary.

Prosecuting of vagrants, &c.

Procuring copies of the imperial standard of weights and measures.

Charges concerning the militia, &c.

The rate is levied on all property liable to be assessed for the relief of the poor.

County Sessions. See "Quarter Sessions."

Court is a designation applied in very various ways, but, in law, it is any place where there is authority to arrive at and enforce judicial decisions.

Court-Baron. The name given to a court incident to a manor.

Court for consideration of Crown Cases Reserved consists of a special meeting of the judges, or a selection of them, for the consideration of such cases as may have been referred to such court by any judge or magistrate upon doubtful points of law, relative to which any judge or magistrate is entitled to state a case for decision.

Court (Divorce). "See Divorce."

Court Lands, otherwise called demesnes.

Court-Leet, The. A manorial court derived from the sheriff's tourn, created by a grant from the Crown to certain lords of manors for the ease of their tenants, in order that they might have justice administered to them at home.

Court-Martial. Superior officers of the army and navy are

authorized and required to try by court-martial members of their respective services against whom there is any charge of infringing the rules and government of such services. The powers of a court-martial do not extend to soldiers and sailors who are accused of crimes that are amenable to the ordinary criminal law, but only to such offences as are expressly defined by the current Mutiny Act and Articles of War.

Court of Record is any court whose proceedings are recorded upon parchment, but the practical power of a court of record is that it can fine and imprison, which cannot be done by a court that is not of record.

Court of Request generally means a small debts' court. Such courts were formerly numerous, but they have been mostly superseded by the county courts.

Court of Session is the highest court in Scotland.

Court Rolls are the records of a manor.

Cousin, with reference to the Crown, is any peer of equal or superior rank to an earl.

Covenant is an additional portion or section of a deed which stipulates for something to be done or avoided over and above the main substance of the deed; but a deed by itself is sometimes called a covenant, and may be expressly so.

Covenant, The Solemn League and. This covenant was established in 1643, and formed a bond of union between Scotland and England for the united preservation of the reformed religion of the Church of Scotland, and the extirpation of popery and prelacy. It was sworn and subscribed by many in both nations, approved by the parliament and assembly at Westminster, and ratified by the general assembly of the Church of Scotland in 1645. It was eventually renounced by Charles II., and declared illegal by 14 Car. II. c. 4.

Coverture is the legal state of a wife, and generally implies a disability. Under the old law it applied to almost everything in which a wife could be legally concerned, but since the Married Women's Property Act of 1882 the application of the word is much restricted.

Covin. A deceitful agreement between two or more to the prejudice of another.

Cowel, Dr. John, was a law student and exponent of much reputation, who was conspicuous in the profession between 1570 and 1618.

Creditor is defined as he that trusts another with money or wares.

Creditors' Suit is when one creditor of a deceased person sues on behalf of himself and the other creditors of the estate.

Crime is an injury done to society or to an individual, as distinguished from an actionable civil injury.

Criminal Appeal, Court of. See "Crown Cases Reserved."

Cross Action is when a defendant replies by taking action against the plaintiff.

Cross Appeal is when both parties to a legal decision appeal against it.

Crossed Cheque. See "Cheque."

Crown, as a legal expression, signifies the king or the queen.

Crown Cases Reserved. Questions of law which arise at criminal trials (except in the case of demurrers) are now usually referred (unless decided at once by the presiding judge) to the Court of Criminal Appeal, which sits under the authority of 11 & 12 Vic. c. 78, which declares that the justices of either bench, and the barons of the exchequer shall have full power and authority to hear and finally determine the question or questions reserved for their consideration, and thereupon to reverse, affirm, or amend, any judgment which shall have been given on the indictment or inquisition, on the trial whereof such question or questions have arisen; or to avoid such judgment, or order an entry to be made on the record that in the judgment of the said justices and barons the party convicted ought not to have been convicted; or to arrest the judgment thereon, or to order judgment to be delivered thereon. It is discretionary with the presiding judge whether he will reserve any point or not for the consideration of the Court of Criminal Appeal. In the case of summary convictions before justices, an appeal may be had under 20 & 21 Vic. c. 48 to either of the superior courts of common law upon a case, setting forth the facts and the reasons for the decision, stated by the justices. If the justices refuse to state such a case, either of the superior courts will, if it seems proper that such a case should be stated for their opinion, order the justices by writ of mandamus to state one.

Crown Court is the criminal side or department at the assizes, as distinguished from the Nisi Prius Court.

Crown Debts are debts due to the Crown, which nothing can extinguish but payment, as bankruptcy, liquidation, assignment, and everything of that kind does not apply to Crown debts.

Crown Lands. See "Land Revenues of the Crown."

Crown Office, a department belonging to the court of Queen's Bench, commonly called the Crown side of the court. The 6 &

7 Vic. c. 20 abolished the clerks in this court and the monopoly of their practice, throwing it open to all persons admitted or admissible to practise as attorneys of the Court of Queen's Bench. There are now only three officers of the Crown side appointed by the Lord Chief Justice, *viz.*, the Queen's coroner and attorney, and one master. See "Supreme Court."

Crown Paper is the list of criminal cases put down for the decision of or trial by the Queen's Bench Division of the Supreme Court.

Crown Side is the criminal business undertaken by the Queen's Bench Division.

Crown Solicitor is the legal representative of the Treasury. He is exempted from the obligation to be on the roll of solicitors.

Cruelty to Animals. Cruelty to horses is provided against by 7 & 8 Vic. c. 87, sec. 3; to animals in general by 12 & 13 Vic. c. 92, which defines cruelty to be committed by any person who "shall cruelly beat, ill-treat, over-drive, abuse or torture any domestic animal." Using dogs for draught is prohibited by 17 & 18 Vic. c. 60, sec. 2; killing or maiming dogs by 24 & 25 Vic. c. 97, sec. 41. Keeping a cockpit or baiting of animals renders the offenders liable to severe punishment.

Culprit is a person accused or, more especially, on his trial.

Cur. Adv. Vult—*curia advisari vult*—is when the court determines to deliberate before pronouncing judgment.

Curate. A curate is the lowest appointment in the church, being an officiating temporary minister regularly employed by the spiritual rector or vicar, either to serve in his absence or as his assistant, as the case may be. All curates ought, before they enter on their duties, to be *licensed* by the bishop of the diocese. See also "Perpetual Curate."

Curator is the person in charge of an estate by special appointment of some legal authority. The expression also applies to the trustee of an estate on behalf of a minor over sixteen.

Curia is another word for Court.

Curia Claudenda is a memorandum that the court is to be closed.

Curia Domina, the court of a manor.

Curia Regis, king's court.

Cursitor was formerly the name of an officer of the Court of Chancery, abolished in 1835.

Curtesy is the common law right of a widower, the father of a child of his late wife, to hold his late wife's landed estate for his life.

Curtilage is described as a garden, yard, or field, or other piece of ground lying near or belonging to a house or messuage.

Custom, though the basis of the common law, is often local and contrary to common law; nevertheless, where it has not been in any way abolished it must prevail if proved.

Customary Court. A manorial court, which concerned copyholders only. As there could be no court-baron without freeholders, so there could be no customary court without copyholders. In this court, the lord of the manor or his steward is the judge. This court, from being the least in importance among the manorial courts, has now become the most important; as, while the jurisdiction of courts-baron and courts-leet has fallen into disuse, the whole business respecting admissions to and surrenders of copyhold estates is still transacted in the customary court. It is necessary that this court should be held within the limits of the manor; unless the lord can show a custom to hold a court within one manor for several.

Customs. The taxes levied upon goods either exported or imported have always been called customs or customary taxes. Export duties were formerly levied by the Crown on the plea that the Crown was charged with the duty of protecting merchant ships from pirates; but export customs have long since been abandoned. With the exception of the import duties upon tea, coffee, and other bases of beverages, together with dried fruits, the customs are now limited to the import of all such articles as would, if produced here, have had to pay an excise duty, the import duty in that case being avowedly for the purpose of placing exciseable goods upon an equal footing as regards competition. But goods that are not directly charged with taxes in the shape of excise duties, but which have to bear their share of the imperial and local taxation of the country, are required to compete with similar imported goods which are not required to contribute anything to either imperial or local revenue. Upon these subjects there is much confusion of ideas, and many persons fail altogether to discern the difference in principle between excise and customs. The customs are newly regulated at short intervals by various detailed rules prescribed for the purpose of preventing any form of evasion of payment. The list of customs is called the tariff.

Custos Brevium. An officer of the old Court of Common Pleas.

Custos Morum. The Court of Queen's Bench, regarded as the guardian of public morals,

Custos rotulorum. The keeper of the rolls or records of the county. He is the principal justice of the peace within the county. The office is always held by the Lord-Lieutenant.

Cutchery. A place for public legal business.

Cut-purse. A pickpocket.

Damage cleere. The designation of a preliminary payment required to be made by a plaintiff when damages were uncertain ; formerly in operation but now abolished.

Damage feasant is damage done by the animals of one man upon the land of another. The liability for it depends upon the ownership of the fences. If the fence through which the animals pass belongs to the land injured, and the fence's want of repair was the cause of the animals straying, the owner of the animals is not liable. So, also, if the owner of the injured land or his servant leaves a gate open so as to let a stranger's animals in, the owner of the animals is not liable.

Damages is the legal designation of the compensation awarded by a jury in consideration of some injury inflicted by a defendant in a civil action.

Danegelt. A tribute of one shilling, and afterwards of two shillings, upon every hide of land throughout the realm, laid upon our ancestors in Anglo-Saxon times for maintaining a force to protect our shores against the incursions of the Danes.

Dangerous Performances. By an Act of 1879 (42 & 43 Vic. c. 34) it is provided that any person who shall cause any child under the age of fourteen years to take part in any public exhibition or performance whereby, in the opinion of a court of summary jurisdiction, the life or limbs of such child shall be endangered, and the parent or guardian, or any person having the custody of such child, who shall aid or abet the same, shall severally be guilty of an offence against this Act, and shall on summary conviction be liable for each offence to a penalty not exceeding £10. And where in the course of a public exhibition or performance, which in its nature is dangerous to life or limb of a child under such age as aforesaid taking part therein, any accident causing actual bodily harm occurs to any such child, the employer of such child shall be liable to be indicted as having committed an assault ; and the court before whom such employer is convicted on indictment shall have the power of awarding compensation not exceeding £20, to be paid by such employer to the child, or to some person named by the court on behalf of the child, for the bodily harm so occasioned ; provided that no person shall be punished twice for the same offence.

Darbar. See "Durbar."

Dative is a word derived from the Roman law, signifying by public authority.

Days of Grace are three days allowed beyond the day upon which a bill of exchange would otherwise become due and payable, a custom expressly confirmed by the Act of 1882. Similar grace was formerly allowed for appearance to certain writs, but that custom is abolished.

De is a common prefix to legal documents and expressions.

De bene esse is to allow or accept for the present or to take something for what it is worth.

De die in diem. From day to day.

Dedonis. The Statute of Westminster the second.

De facto is a person or state of things holding an office or operating, though possibly without legal warrant.

De jure is the reverse of *de facto*, a person who is entitled to a position from which he is excluded, or a state of things that should be but is not.

De lunatico inquirendo. An inquiry whether a person is a lunatic.

De medietate linguæ. A jury of whom half are foreigners. Formerly every foreigner in an action or upon trial could demand such a jury; but the right was abolished for civil actions in 1825, and in criminal cases in 1870.

De non decimando. Not liable for tithes.

De novo. To go back to the commencement.

Deacon. The order of deacon is the lowest of the three orders in the Church of England. The bishop knowing by himself or by sufficient testimony any man to be of virtuous conversation and without crime, and after examination and trial finding him learned in the Latin tongue and sufficiently instructed in Holy Scripture, may admit him a deacon. No one may be admitted to the order of deacon unless he be twenty-three years of age. And no one can be admitted to holy orders unless he have some certain place where he may use his function—this is called his title to orders. Subject to these rules the bishop is the sole judge, unfettered in his discretion, as to the moral and personal qualifications of the candidate. A deacon may preach, and conduct the rite of baptism, and he may generally conduct the divine service with this exception—that he may not pronounce the absolution and may not administer the Lord's Supper.

Dean is the chief of a cathedral, president of the chapter, which consists of the canons who have the management of the cathedral.

Dean of the Arches. The judge of the Court of Arches.

Deaths. Every registrar is authorized and required to inform himself carefully of every death which shall happen in his district, and to learn and register as soon after the event as may conveniently be done such particulars of the same as are specified in the schedule to 6 & 7 Will. IV. c. 86. And the occupier of every house in England in which any death shall take place may, within five days after the day of such death, give notice thereof to the registrar of the district. And some person present at the death, or in attendance during the last illness, of any person dying in England, or in default of all such persons the occupier of the house in which such death has happened (or if the occupier be the person dying, then some inmate) *shall*, within eight days after the death, give information on being requested to do so to the registrar, according to the best of his or her knowledge and belief, touching such particulars as are required to be known and registered touching such death. And in the case of an inquest upon the body, such information is to be conveyed to the registrar by the coroner before whom such inquest is to be held.

Debenture is sometimes used to designate a certificate entitling the holder to a drawback upon the export of goods that have been charged with excise duty. In modern times it has become more generally known as a bond given by a company for money it has borrowed.

Debt is popularly regarded as a sum of money for which a person is liable—hence a man is said to *pay* his debts; but it is legally regarded as the right of a creditor to *receive* a sum of money—hence a man's book-debts are said to be part of his assets.

Debt, Imprisonment for. Up to 1869 a judgment creditor had it in his power, without asking for the intervention of any judge, to issue execution against the body of his debtor, *i.e.*, to deliver to the sheriff a writ called a *capias ad satisfaciendum* (commonly called a "*Ca. Sa.*"), directing the sheriff to seize and imprison the debtor. Formerly a creditor might commence the legal proceedings by arresting the debtor; but this imprisonment, or *mesne process* as it was called, was abolished at the beginning of the present reign. Up to the year 1869 the judgment creditor retained the power of imprisonment or final process, but the debtor no longer remained liable to be imprisoned indefinitely until payment of the debt, as the registrar attended periodically at the prisons and released those debtors who had been in

prison for three months. In 1869, however, the power of a creditor over his debtor was still further curtailed by "The Debtors' Act" of that year. This Act provides that, "with the exceptions hereinafter mentioned, no person shall, after the commencement of this Act, be arrested or imprisoned for making default in payment of a sum of money. There shall be excepted from the operation of the above enactment: 1. Default in payment of a penalty, or sum in the nature of a penalty, other than a penalty in respect of any contract. 2. Default in payment of any sum recoverable summarily before a justice or justices of the peace. 3. Default by a trustee or person acting in a fiduciary capacity, and ordered to pay by a court of equity any sum in his possession or under his control. 4. Default by an attorney or solicitor in payment of costs when ordered to pay costs for misconduct as such, or in payment of a sum of money when ordered to pay the same in his character of an officer of the court making the order. 5. Default in payment for the benefit of creditors of any portion of a salary or other income in respect of the payment of which any court having jurisdiction in bankruptcy is authorized to make an order. 6. Default in the payment of sums in respect of the payment of which orders are in this Act authorized to be made. Provided, first, that no person shall be imprisoned in any case excepted from the operation of this section for a longer period than one year; and, secondly, that nothing in this section shall alter the effect of any judgment or order of any court for payment of money except as regards the arrest and imprisonment of the person making default in paying such money." Section 5 provides that, subject to the provisions hereinafter mentioned and to the prescribed rules, any court may commit to prison for a term not exceeding six weeks, or until payment of the sum due, any person who makes default in payment of any debt or instalment of any debt due from him in pursuance of any order or judgment of that or any other competent court. Provided (1) that the jurisdiction by this section given of committing a person to prison shall, in the case of any court other than the superior courts of law and equity, be exercised only subject to the following restrictions; that is to say, (a) be exercised only by a judge or his deputy, and by an order made in open court, and showing on its face the ground on which it is issued. (b) Be exercised only as respects a judgment of a superior court of law or equity, when such judgment does not exceed the sum of £50, exclusive of costs. (c) Be exercised only as respects a judgment

of a county court by the county court judge or his deputy. (2) That such jurisdiction shall only be exercised when it is proved to the satisfaction of the court that the person making default either has, or has had since the date of the order or judgment, the means to pay the sum in respect of which he has made default, and has refused or neglected, or refuses or neglects, to pay the same. Proof of the means of the person making default may be given in such manner as the court thinks just; and for the purposes of such proof the debtor and any witnesses may be summoned and examined on oath, according to the prescribed rules. Any jurisdiction by this section given to the superior courts may be exercised by a judge sitting in chambers, or otherwise in the prescribed manner. For the purposes of this section any court may direct any debt due from any person in pursuance of any order or judgment of that or any other competent court to be paid by instalments, and may from time to time rescind or vary such order. Persons committed under this section by a superior court may be committed to the prison in which they would have been confined if arrested on a writ of *capias ad satisfaciendum*, and every order of committal by every superior court shall, subject to the prescribed rules, be issued, obeyed, and executed in the like manner as such writ. This section, so far as it relates to any county court, shall be deemed to be substituted for secs. 98 and 99 of the County Court Act, 1846, and that Act and the Acts amending the same shall be construed accordingly, and shall extend to orders made by the county court with respect to sums due in pursuance of any order or judgment of any court other than a county court. No imprisonment under this section shall operate as a satisfaction or extinguishment of any debt or demand or cause of action, or deprive any person of any right to take out execution against the lands, goods, or chattels of the person imprisoned, in the same manner as if such imprisonment had not taken place. Any person imprisoned under this section shall be discharged out of custody upon a certificate signed in the prescribed manner to the effect that he has satisfied the debt, or instalment of a debt, in respect of which he was imprisoned, together with the prescribed costs (if any). By section 6 power is given under certain circumstances to arrest a defendant about to quit England. The second part of the Act relates to the punishment of fraudulent debtors.

Debtor's Summons is a summons requiring a debtor to pay £50 or upwards within seven days, whether a trader or not,

without any distinction. Should the debtor fail to pay within the stated time, he is liable to be forthwith declared bankrupt. See "Bankruptcy."

Deciners. The name of certain officials in some ancient boroughs, of which Burton-on-Trent was an example prior to its incorporation. The word is derived from some old custom relating to ten households, and hence appearing to date from the Norman Conquest, being a designation of French derivation.

Declaration is the plaintiff's statement of his ground of action.

Declaration by a Debtor is a formal notification that the debtor cannot pay his debts. It entitles any creditor or creditors to the amount of £50 or upwards to make the debtor bankrupt. See "Bankruptcy."

Declaration of Paris was a resolution of the Congress of Paris, 1856, which committed every nation represented in the Congress and assenting to the resolution to the abolition of privateering; the inviolability of enemy's goods when not contraband of war, if covered by a neutral flag; the inviolability of neutral goods when not contraband of war, though found under the enemy's flag; and that a blockade is not to be respected unless it be effective.

Declaration of Title. By an Act of 1862 (25 & 26 Vic. c. 67) any owner of landed property is entitled, on application, to a declaration in the Chancery Division of the Supreme Court that his title is good, subject to evidence thereof.

Declaratory Statute. A statute which merely declares what the common law is.

Decree in Chancery and the Divorce Court is an equivalent to a judgment in a law court.

Decree Nisi is a decree in suspense, that cannot take effect until a decree absolute has been obtained in confirmation of it, in accordance with the rules of the court that pronounces the decree.

Decretals. Books of the Canon Law.

Decretum Gratiani. An ancient commentary on the ecclesiastical law by Gratian, an Italian monk.

Dedbana. An ancient name for homicide.

Dedication is the making over to the public of any corporeal or incorporeal right of property.

Dedimus potestatem (we have given the power). A writ or commission to one or more private persons for the speeding of some Act appertaining to a judge, or a court. On renewing

the commission of the peace, then issues a writ of *dedimus potestatem* out of Chancery, directed to some justice, to take the oath of him who is newly inserted.

Deed is a document in writing under hand and seal, duly executed, in the preparation or conduct of which it is illegal for any but a qualified legal practitioner to act for or in the expectation of any fee or reward.

Deed Poll is a deed by one person only.

Deed Indented is when there are two or more parties to the deed, and it was an ancient custom to indent or cut the edge of the document as mechanical evidence of the solemn nature of the ceremony of delivery; hence the name of indenture. By an Act of 1845 (8 & 9 Vic. c. 106, sec. 5) the obligation to mechanically indent an indenture, which was previously a subject of much controversy, was formally abolished.

Deemsters are judges in the Isle of Man.

Defamation is a slander or libel upon the character or reputation of any person, usually actionable as for slander or libel, and in some cases subject to criminal prosecution.

Default is the omission of some duty.

Defeasance is a deed supplementary to another; the non-fulfilment of the supplementary conditions being a defeat or defeasance of the principal deed.

Defence is the course taken by or on behalf of a defendant in an action or prosecution.

Defendant is the opposing party in an action or prosecution, though in the latter *prisoner* is the usual designation.

Defender of the Faith. This title was conferred by Leo. X. on Henry VIII. (1521) in consequence of his having written a book in Latin against the principles of Luther. The title has ever since been retained by our sovereigns.

Deforcement is the holding of property to which another has the right.

Degradation is deprivation of the rank of peerage. It occurs when a dowager peeress marries a commoner and when a peer is deprived of his peerage by Act of Parliament.

Dei judicium. Trial by ordeal or judgment of God.

Del crede Commission is a commission agreed to be given to an agent upon the sale of goods for which the agent is responsible for payment.

Delegates, The High Court of. Formerly the court of appeal from the Admiralty and Ecclesiastical courts. It has

since been abolished, and its appellate jurisdiction transferred to the Judicial Committee of the Privy Council.

Delicto, Action ex, is an action in tort, independently of any contract.

Delivery is the ceremony of putting the finger on the seal of a deed and saying, "I deliver this as my act and deed."

Dem, an abbreviation of demise.

De medietate linguæ, Jury. The 6 Geo. IV. c. 50 sec. 47 enacts that on the prayer of any alien, the jury that is to try him shall be composed half of aliens and half of natural-born subjects. By the 33 & 34 Vic. c. 14 (Naturalization Act) an alien is no longer entitled to this privilege.

Demesne. See "Manor" and "Ancient Demesne."

Demise. The king, according to the theory of the English constitution, never dies. The word demise accordingly is used to denote the transmission of the Crown to the heir on the death of the sovereign.

Demonstrative Legacy is a gift by will out of a specific provision.

Demurrage is the amount due from the hirer or charterer of a ship for time beyond that originally stipulated for.

Demurrer is a formal objection to a bill of indictment, information, or evidence, for that it does not meet the requirements of the law.

Denizen is a person who was formerly an alien, but who has obtained letters patent to make him to a certain extent an English subject.

Dentists. By the Dentists' Act, 1878, it is rendered unlawful for any one who is not a qualified medical practitioner to use the name of dentist or dental practitioner, or any other word implying a qualification to act as a dentist, unless he is registered as a qualified dentist, subject to a penalty of £20 for so using the name. Provision is made for the appointment of general and local registrars, and every person using the name of dentist or dental practitioner, or any name of a like character, must be registered with some registrar. Persons engaged and known as dentists before the passing of the Act are entitled to be registered; but all other persons, before being entitled to registration, must be either a licentiate in dental surgery or dentistry of any of the medical authorities, or else a dentist from some foreign country with a recognized certificate. Dentists convicted of crime or guilty of disgraceful conduct are liable to be erased from the register.

Deodand. A personal chattel which had been the immediate occasion of the death of any reasonable creature. Formerly such a thing was forfeited to the Crown, or to some lord of manor or other person to whom such franchise had been granted. Deodands were abolished by 9 & 10 Vic. c. 62.

Deponent is a witness, usually by affidavit.

Deposit of Title Deeds gives the rightful holder of the deeds an equitable mortgage independently of, or without a mortgage deed.

Deposition. Evidence committed to writing.

Deprivation is the degradation of a clergyman of any rank.

Derelict is anything forsaken or abandoned by the owner.

Dereliction is the rising of a sea-coast whereby land is rendered tenantable. If gradual, it becomes the property of the owner of the adjoining land; if sudden, it becomes the property of the Crown.

Designs. See "Copyright."

Destructive Insects. See "Beetle."

Detinue is an action for the recovery of chattel property detained by the defendant.

Devastavit is waste by an executor of the estate he is charged with.

Devise. A gift of land by will.

Dictum. The legal decision of a judge.

Dies Juridicus. A day upon which legal proceedings may go on.

Dies non Juridicus. A day on which legal proceedings cannot go on.

Diet. A continental name for an assembly.

Dieu et mon Droit. God and my right; first adopted by Richard I., and retained ever since, as a declaration that the Crown is held by right conferred by God.

Digest is a collection of extracts, but is generally applied to a dissertation embodying all the points under some specified branch of law or equity.

Dilapidation, though commonly applied to the minor injuries for which a tenant is liable in giving up possession, strictly applies to injury or depreciation committed or suffered by the incumbent of a benefice for which his legal successor is liable.

Dilatory Plea is one that makes objection to the progress of an action by reason of some secondary action; such, for instance, as asserting that the court is not competent to try the case.

Diocesan Court is the court of a bishop for ecclesiastical cases arising within his diocese.

Diocese. The limits within which a bishop exercises his jurisdiction. In the case of an archbishop, the limits are termed a province.

Directory Statute. When a statute directs that an act shall be done in a specific manner, or authorizes it upon certain conditions, if a strict compliance with its provisions is not essential to the validity of the act it is said to be directory, although the performance might be enforced by writ of mandamus; but if such compliance is essential, it is said to be imperative.

Direct Evidence is that which bears directly upon the points at issue as distinguished from circumstantial evidence.

Disafforested is land emancipated from forest laws.

Disbar is to deprive a barrister of his standing as such.

Disbench is to remove a benchman of an inn of court.

Discharged Prisoners' Aid Act, 1862, recognizes voluntary societies for the aid of discharged prisoners, gives any court of quarter sessions power to grant or withdraw a certificate authorising such society, and to pay any such society two pounds or less for the benefit of any discharged prisoner expressly specified.

Disclaimer is the formal disavowal of any right, claim, or responsibility alleged with reference to the person who puts in the disclaimer.

Discount is the amount due by way of commission to any bank or person who advances money upon a bill. It also signifies an abatement of an amount claimed in consideration of prompt cash or otherwise.

Discover is a woman who is not under the disabilities of coverture.

Discovery is the disclosure made by one party to an action on the demand of the opposite party. The word also applies to the full disclosure by a bankrupt of all his property.

Disentailing Deeds are for the purpose of cutting off an entail in accordance with the Act of 1833 (3 & 4 Will. c. 74).

Disgavel is to set aside the law of gavelkind.

Dishonour is when the person upon whom a bill is drawn refuses to accept it: he is then said to dishonour the draft. When he fails to meet a bill in accordance with his own acceptance, then he dishonours his acceptance.

Dispauper is when a plaintiff has been permitted to sue *in forma pauperis*, but from whom the privilege is withdrawn.

Dispensing Power. A power once claimed by our kings of dispensing with the operation of a particular statute in favour of a particular person or persons.

Distress. In certain cases the law allows a man to be his own avenger without having recourse to a court of justice—as by seizing the goods or chattels of another. This is termed *distraining* or levying a distress. A distress is the taking of a personal chattel out of the possession of a wrong-doer into the custody of the party injured, to procure a satisfaction for the wrong committed. 1. The most usual injury for which a distress may be taken is that of non-payment of rent. A distress is incident by common law to every rent-service, and by particular reservation to rent-charges also; but not to rent-seck till the statute 4 Geo. II. c. 28 extended the same remedy to all rents alike, and thereby abolished all distinction between them; so that now it may be laid down as a universal maxim, that a distress may be taken for any kind of rent in arrear, the detaining whereof beyond the day of payment is an injury to him entitled to receive it. 2. For neglecting to do suit to the lord's court, or other certain personal service, the lord may distrain of common right. 3. The same rule applies to amercements in a court-leet. 4. Another injury for which a distress may be taken, is where a man finds beasts of a stranger wandering in his grounds, damage feasant (that is, doing hurt or damage), in which case the owner of the soil may distrain them till satisfaction be made. 5. For several rates or duties given and penalties inflicted by Act of Parliament (as for assessments made for the relief of the poor) remedy by distress is given. As a general rule all personal chattels may be distrained; but whatever is in the personal use or occupation of any man is privileged from distress. The same privilege is extended to a man's tools and utensils of his trade—the axe of a carpenter, the books of a scholar, and the like. But even these may be distrained where they are not in actual service, and where there is not sufficient property besides on the premises. Again, nothing may be distrained for rent which may not be restored again in as good plight as when it was distrained; for which reason milk, fruit, and the like cannot be distrained. Lastly, things attached to the freehold cannot be distrained, as windows, doors, and chimney-pieces. All distresses must be made by day, except in the case of cattle damage feasant; and every distress must be in proportion to the amount distrained for. As soon as a distress is made, the articles distrained must

be impounded. In the case of cattle, they may be driven to a pound and kept there; but the more usual way is to put some man in possession of the things distrained, and the things in question are then considered to be in the custody of the law. While the goods in question are thus impounded, the owner is allowed five days to replevy or redeem them. After the expiration of five days, notice having been given to the owner, the distrainer, with the sheriff or constable, shall cause the distress to be appraised by two sworn appraisers, and sell the same towards satisfaction of the rent and charges, rendering the overplus, if any, to the owner himself.

Agricultural Holdings (England) Act, 1883. This Act prescribes new limitations as to distress, and a new scale of charges. See also "Landlord and Tenant."

Distributions, Statute of. An Act (22 & 23 Car. II. c. 10, explained by 29 Car. II. c. 3) providing for the distribution of the personal property of a person who dies intestate. This Act provides that the surplusage of intestates' estates—except of *femes covert*, the administration and enjoyment of whose estates belong by the principles of the common law to their husbands—shall, after the expiration of one full year from the death of the intestate, be distributed in the following manner:—One-third shall go to the widow of the intestate, and the residue in equal proportions to his children, or, if they be dead, to their representatives, that is, their lineal descendants; if there are no children or legal representatives of such children subsisting, then a moiety shall go to the widow, and a moiety to the next of kindred in equal degree and their representatives; if no widow, the whole shall go to the children; if neither widow nor children, the whole shall be distributed among the next of kin in equal degree and their representatives; but no representatives are admitted among collaterals, further than the children of the intestate's brothers and sisters.

Divorce and Court of Divorce. Before the passing of the Act 20 & 21 Vic. c. 85, the jurisdiction in matters matrimonial was vested in the Ecclesiastical Courts; but by sec. 2 of the Act it was taken away from these courts, except as regards the granting of marriage licences. By sec. 6 the whole jurisdiction over causes matrimonial was vested in the Court for Divorce and Matrimonial Causes enacted by the Act. By sec. 8 (amended by sec. 1 of 22 & 23 Vic. c. 61) the Lord Chancellor and all the judges of the superior courts of common law, and the judge of the Court of Probate are the judges of the court, the

latter judge being called the judge ordinary of the court. The judge ordinary, either alone or with one or more of the other judges, has full power to hear and determine all matters arising therein. The judge ordinary generally sits alone, and transacts all the business of the court. An appeal lies from his decision to the full court, which is ordinarily composed of the judge ordinary and two of the other judges; from the decision of the full court an appeal lies to the House of Lords. The court may grant a divorce, judicial separation, or restitution of conjugal rights; or it may decree a marriage to be null and void. The proceedings commence by petition to the court.

As to *Divorce*, if the petitioner be the husband, and it be proved that the wife has been guilty of adultery, the court may decree a dissolution of the marriage; if the wife be the petitioner, she must prove not only adultery on the part of her husband, but cruelty or desertion. The court must in either case be satisfied that the petitioner has not been in any manner accessory to or conniving at the adultery; that the adultery complained of has not been condoned; that the petition is not presented or prosecuted in collusion with either of the respondents. Moreover, the court is not bound to pronounce such a decree if it shall find that the petitioner, during the marriage, has been guilty of adultery, or if the petitioner shall, in the opinion of the court, have been guilty of unreasonable delay in presenting or prosecuting such petition, or of cruelty towards the other party to the marriage, or of having deserted or wilfully separated himself or herself from the other party before the adultery complained of and without reasonable excuse, or of such wilful neglect and misconduct as has conduced to the adultery. In case the husband is the petitioner, he must charge the adultery to have been committed with a particular person or persons, and must make such person or persons co-respondents to the suit. He may also ask for damages against the co-respondent. The court, on decreeing a dissolution of marriage, makes such provision for the custody of the children (if any), and for alimony to be given to the wife, as it may think fit. The court pronounces at first only a *decree nisi*; the petitioner, having obtained such a decree, must move at the end of three months to have the decree made absolute. The decree is made absolute as a matter of course, unless the queen's proctor intervenes, which he may always do if he sees reason to believe that the court has been imposed upon; as, for instance, that there is collusion between the parties, or that there has been adultery or other misconduct

on the part of the petitioner, which if the court had known of it would not have granted the decree. In case the queen's proctor intervenes, the case has to be tried over again. When a decree for dissolution of marriage has been made absolute, the parties are at liberty to marry again; but no clergyman of the Established Church is compellable to solemnize the marriage of any person whose former marriage has been dissolved on the ground of his or her adultery.

The court will grant a wife judicial separation in case of the cruelty of her husband. The court in such a case makes an order on the husband to pay alimony, and grants the wife full protection to her person as it did formerly to her property, but since 1882 that is a dead letter, as a wife has since the control of her own property in any case. The marriage, however, remains undissolved.

The court, in case one party to a marriage refuse to cohabit with the other, will grant the other party a decree for restitution of conjugal rights.

In cases where a marriage has never been consummated, and the respondent is proved to labour under an inability to consummate, the court will pronounce the marriage null and void.

Costs of intervention by a queen's proctor are provided for by an Act of 1878 (41 Vic. c. 19).

Docket is the copy of a decree.

Doctor. See "Medical Man."

Doctors' Commons. An institution near St. Paul's Cathedral in London, where the Ecclesiastical and Admiralty Courts were held. In 1768 a royal charter was obtained, by virtue of which the members of the society and their successors were incorporated under the name and title of "The College of Doctors of Law, exercent in the Ecclesiastical and Admiralty Courts." The college consists of a president (the Dean of the Arches for the time being) and of those doctors of law who, having regularly taken that degree in the universities of Oxford or Cambridge, and having been admitted advocates by the Archbishop of Canterbury, shall have been elected fellows of the college in the manner prescribed by the charter. By 20 & 21 Vic. c. 77, secs. 116, 117, power was given to the college to sell its real and personal property, and to surrender its charter of incorporation, and upon surrender the college is to be dissolved.

Doli Capax means capable of mischief, but is generally applied to children between seven and fourteen years of age, who are considered capable of judging between right and wrong, and therefore criminally responsible.

Domesday Book. This important national record derives its name, according to Ingulphus, a contemporary writer, from its resembling the last judgment in its universality and completeness; though some have considered it as a corruption of *Domus Dei*, the name of the chapel in Winchester Cathedral in which it was preserved. It was compiled in the reign of William the Conqueror, by committees appointed by royal commissioners in the different counties, and shows the extent, nature, and divisions of the landed property in each of the products of various kinds, as woods, fisheries, mines, &c. It consists of two volumes, a large folio and a quarto, both written on vellum. It was printed by the government in 1783.

Domicile is the fixed residence of any person. The length of time necessary wherein to acquire a domicile is not defined. It depends upon the *bona fide* character of the residence more than upon the length of it. Thus, taking up a residence for the express purpose of obtaining a domicile there is regarded with much suspicion, and will fail in case of challenge unless sustained by confirmatory evidence.

Donatio Mortis Causa is when a person who is in apprehension of death delivers to another personal property as a gift. Such a gift suffices to supersede a will, if the gift can be proved, and the delivery of deeds in like manner will pass property in land where there is no restraint, such as a prior settlement, upon the land.

Donor is the giver of anything.

Dormant Partner is one whose partnership is not publicly disclosed.

Dowager or Dowress is a widow in the enjoyment of dower.

Dower is the right of the widow of an intestate to one-third of the income derived from the landed estate of her late husband for her life, as against her own son and other children, if any, or against any other heir. This right of a widow is, however, at the mercy of any will the husband may make, and there are several other ways in which dower may be barred.

Dowry is the property of a wife acquired by her husband by marriage, obsolete since 1882.

Drawback is the allowance to an exporter of any amount with which the goods may have been charged under the excise laws.

Drawee is the person upon whom a bill is drawn.

Drawer is the person who draws a bill.

Drogheda, Statute of. See "Poyning's Act."

Drunkards. The Habitual Drunkards' Act, 1879 (42 & 43 Vic. c. 19), was passed to facilitate the control and cure of habitual drunkards. The following are the leading heads:—Local authority; establishment of retreats; to whom licence not to be given; power to transfer licence; removal of habitual drunkards from unfit habitation and notice thereof; admission to retreats on own application; licensees of retreats to send notice of reception; power of discharge; inspectors of retreats; fees to be accounted for; inspection of retreats; annual return; rules as to management of retreats; orders to inspect; permission that person detained may reside out of retreat; absence to be reckoned in time of detention; habitual drunkards may forfeit leave of absence; revocation of leave of absence; offences by licensees of retreats; offences by officers, servants, and other persons; offences by habitual drunkards while detained; apprehension of habitual drunkard escaping; proceedings on death of person detained; penalties for neglect, omission, and offences.

Duke. A duke, though he be with us, in respect of his title of nobility, inferior in point of antiquity to many other nobles, yet is superior to them all in rank; his being the first title of dignity after the royal family.

Durbar is a court or levee in India.

Duress. Constraint or imprisonment.

Dwelling-house. The inhabitant occupier of a dwelling-house is, under certain conditions, entitled, under sec. 3 of the Reform Act, 1867, to be registered as a voter at parliamentary elections for the city or borough in which the dwelling-house is situate. "Dwelling-house," by sec. 61 of the Act, "shall include any part of a house occupied as a separate dwelling and separately rated to the relief of the poor." Supposing a man occupies part of a house as a separate dwelling, and is separately rated, it may still be a question whether the part of the house which he so occupies is sufficient to give him a vote. Decisions are conflicting. Each case must be considered on its own merits.

Dwellings. New provisions as to dwellings for artisans and labourers are made by an Act of 1875 (38 & 39 Vic. c. 36), which is applicable to the metropolis and all places having 25,000 inhabitants, amended by a short Act of 1879 (42 & 43 Vic. c. 63), which relaxes some of the obligations upon local authorities, and makes special provision for compensation to owners. The Act of the same year, cap. 64, further extends

powers, confers additional privileges upon owners, gives local authorities power to execute sanitary works, makes provision for disposal of surplus land, and for the acquisition of loans, with new powers with regard to dwellings in general. An Act of 1880 (48 Vic. c. 8) is for the sole purpose of correcting a verbal error in an Act of the previous year.

Ealdorman. See "Earl."

Earl. A title of nobility so ancient that its origin cannot clearly be traced out. Thus much seems tolerably certain, that among the Saxons there were earls and ealdormen, *quasi* elder men, like the senior or senator among the Romans. These ealdormen were also called schiremen, because they had each of them the civil government of a several division or shire. In Latin, earls are called *comites*. After the Norman Conquest, they were for some time called *counts* or *countees*, from the French; but they did not long retain that name themselves, though their shires are from thence called counties to this day. The name of earl has now become a mere title of nobility, he having nothing to do with the civil government of the county, as his office now entirely devolves on the sheriff. In writs and commissions and other formal instruments, the king, when he mentions any peer of the degree of an earl, usually styles him "trusty and well-beloved cousin"—a mode of address introduced by Henry IV., who was by his wife, mother, or sisters related or allied to every earl in the kingdom.

Earnest is an admission of an obligation evidenced by a verbal assurance or material acknowledgment. Thus words or acts of politeness constitute an earnest of regard, and payment of money on account is generally regarded as an earnest of further indebtedness.

Easement is an incorporeal right affecting the property of others, and limiting the absolute character of their rights. A right of path across a field, whether possessed by an individual or the public, is an easement; and so also is any right of way or water or access to light and prospect. As a general rule, an easement is on sufferance, unless it has subsided for twenty years, when it becomes a prescription.

Easter Dues are annual amounts due to the clergymen of some parishes and payable by the rated inhabitants. They were first instituted by 2 & 3 Edw. VI. c. 13, which has not been entirely repealed, but as in many cases payment has been systematically discontinued, it is not in such cases enforceable. Where the custom has been persevered in, the right of recovery is believed to generally accrue, but it is a moot point.

East India Company. An association originally established A.D. 1600 by a charter of Elizabeth for prosecuting the trade between England and India. Its political power abolished in 1858, the company dissolved in 1874, since which all its powers have been merged in the India Department of the imperial government, its president being invariably Cabinet Minister.

Easter Term commences on the 15th of April and continues till about the 8th of May, possibly the 18th. Under the Judicature Act of 1873 this no longer affects the proceedings of the courts.

Eat inde sine die means that a defendant is discharged from attendance without a day being named for his future appearance.

Ecclesiastical Commissioners were first appointed as a royal commission in 1835, and an Act to incorporate them and extend their powers was passed in 1836 (6 & 7 Will. IV. c. 77), which has been supplemented by various statutes. They consist of the bishops, chief justice, and other persons of high social or professional rank. The property out of which bishops are paid is vested in the Ecclesiastical Commissioners, with power to alter the manner of its apportionment, which power has been freely exercised. They have considerable control in other respects, being charged with the responsibility of generally advancing the power and influence of the Church.

Ecclesiastical Corporation is one composed of members of the clergy of any rank.

Ecclesiastical Courts are those charged with the business of the Church. (See "Corporation.")

Ecclesiastical Titles Act. In 1851 an Act was passed (14 & 15 Vic. c. 60) prohibiting under penalties the assumption of the title of archbishop or bishop of a pretended province or diocese, or archbishop or bishop of a city, place, or territory, or dean of any pretended deanery in England or Ireland, not being the see, province, or diocese of an archbishop or bishop or deanery of any dean recognized by law. This Act was superseded in 1871 by 34 & 35 Vic. c. 53, which is still nominally in force, but has never been acted upon.

Education, Elementary. The present law on this subject is based upon the Elementary Education Act, 1870, by which the education of every child over five years old and not more than fourteen was for the first time made compulsory in England; to effect which the establishment of school-boards throughout the county was provided for, with power to build

schools and enforce the attendance of every child within the stated ages at some school or to receive adequate education privately. Supplementary Acts were passed in 1872, 1873, and 1876, under which details are provided, the effect of the whole being that no child is allowed to work until fourteen years of age unless such child has passed prescribed examinations, with some exceptional stipulations. An Act of 1879 (42 & 43 Vic. c. 48) gives additional power to school-boards in relation to industrial schools. It authorizes borrowing to raise contributions to industrial schools. It authorizes guardians of the poor to contribute to the maintenance of children in industrial schools. An Act of 1880 (43 & 44 Vic. c. 23) makes further provision as to bylaws respecting the attendance of children at school under the Elementary Education Acts.

Ejectment is a civil action, not for the ejection of an occupying tenant, but for the purpose of ousting a person alleged to have exercised, or to be exercising and enjoying, the rights of ownership without being entitled to do so. In olden times, when landowners or their heirs were liable to be killed in the battle they so frequently joined in, and when authentic news of their death or imprisonment was so long in arriving, it was a common thing for scheming persons to acquire possession and ostensible ownership of land by taking advantage of some circumstance of the character just described ; consequently, actions of ejectment were frequent, complicated, and subject to some of the most extraordinary legal devices for the defeat of just claims. In modern times such cases have become fewer until they are extremely rare. When they do occur, the old procedure therein is superseded by the Common Law Procedure Act, 1852, which abolished the ancient legal fictions that were formerly allowed to be imported into actions of ejectment.

Elders Widows' Fund. In 1820 there was established The Elders Widows' Fund, for the relief of the widows and orphans of persons employed in the extra department of the home service of the East India Company. The income derived from the means placed at the disposal of the fund having proved more than sufficient, an Act was passed in 1878 (41 & 42 Vic. c. 47) authorizing the payment of the future ultimate surplus to the revenue of India.

Elections, Parliamentary. Parliament is to be summoned by the sovereign's writ or letter, issued out of Chancery by advice of the Privy Council, at least thirty-five days before it begins to sit.

A candidate for election must be nominated in writing, which must be subscribed by two registered electors of the county or borough as proposer and seconder, and by eight other electors of such county or borough as assenting to the nomination; and this writing must be delivered during the time appointed for the election to the returning officer by the candidate himself, or by his proposer or seconder. If at the expiration of one hour from the time appointed for the election no more candidates stand nominated than there are vacancies to be filled up, the returning officer shall forthwith declare the candidates who may stand duly elected. (See also "Ballot Act.")

Election Petitions. A petition complaining of an undue return or election must be presented by some person who voted, or who had a right to vote, at the election to which the petition relates; or some person claiming to have had a right to be returned or elected at such election; or some person alleging himself to have been a candidate at such election. The petition is to be signed by the person or persons presenting it; it must be presented within twenty-one days after the return has been made to the Clerk of the Crown in Chancery in England, or to the Clerk of the Crown and Hanaper in Ireland, as the case may be, of the member to whose election the petition relates—unless it questions the return or the election upon the allegation of corrupt practices, and specifically alleges a payment of money or other reward to have been made by any member, or on his account, or with his privity, since the time of such return, in pursuance or in furtherance of such corrupt practices, in which case the petition may be presented within twenty-one days after the date of such payment. Presentation of the petition must be made by delivering it to the prescribed officer; at the time of the presentation or within three days after, the person or persons presenting the petition must give security, by deposit of money or otherwise, to the extent of £1000 to answer all costs, charges, and expenses that may become payable to any person summoned as a witness in support of the petition; or to the member whose return or election is complained of. These preliminaries having been gone through, the trial of every election petition is to be conducted before two judges of the Supreme Court. Every petition must be tried by such judges sitting in open court, without a jury; in case it relates to a borough election, within the borough, and in case it relates to a county election, within the county. (See also "Corrupt Practices.")

Electric Lighting. In 1882 an Act was passed (45 & 46

Vic. c. 56) to facilitate and regulate the supply of electricity for lighting and other purposes in Great Britain and Ireland. The powers conferred by the Act are based upon licences by the Board of Trade, which department of the government has power to grant provisional orders and to make rules and regulations for the construction of works and for the regulation of the supply, subject to numerous detailed provisions contained in the Act, which gives the present and ultimate control to the local authority of each place, with power to delegate the authority to any person or persons who may undertake the supply, from whom the local authority has express powers of purchase. One of the subordinate provisions of the Act is that the Board of Trade is empowered to release gas companies from the obligation to supply gas. It is rendered expressly illegal to transmit telegrams along conductors of electricity for other purposes.

Elegit. A writ of execution. This is a judicial writ given by the statute of Westminster the second, 13 Ed. I. c. 18. But now, by 1 & 2 Vic. c. 110, sec. 11, it is provided, that upon an elegit the sheriff shall deliver execution of all lands, tenements, and hereditaments (including those of copyhold or customary tenure, which were formerly not liable to an elegit) which the judgment debtor, or any person in trust for him, shall have been seized or possessed of at the time of entering up the judgment, or at any time afterwards; or over which, such person, at the time of entering up such judgment, or at any time afterwards, have any disposing power, which he might, without the assent of any other person, exercise for his own benefit.

Elementary Education. See "Education."

Elisors are persons authorized to decide upon the composition of a jury when the person otherwise charged with that duty is an interested party, or in some way disqualified for the performance of the duty.

Eloign is to carry away goods so as to avoid a distress.

Embargo is the form of procedure that detains a ship in port, subject to some condition or as a result of special circumstances. It generally arises in the course of international disputes, or in time of war, as against the ships of the enemy.

Embezzlement is the fraudulent detention of monies or goods which ought to have been delivered up to the owner or to his order. It generally occurs with reference to a clerk, traveller, or collector, who fails to deliver the money he has received on behalf of his employer. Mere detention, without fraud or fraudulent intent, is not embezzlement; but the appro-

priation of the smallest part of the money to his own use by a person entrusted with it constitutes the offence. It is generally regarded as worse than a common larceny.

Emblements. This legal expression denotes the growing crops which an outgoing tenant or other person is entitled to gather after the term of his tenancy has expired, with power to enter for the purpose, and generally to use the buildings and appurtenances incident to the work of securing the crop. The right only arises when the tenancy has terminated through the action of the landlord or from some occurrence beyond the control of the tenant, who is not entitled to emblements if the tenancy has terminated at his own instance.

Embracery is the art of endeavouring to corruptly influence a jury.

Empanel. See "Impanel."

Emparlance. See "Imparlance."

Employers. The rights and obligations of employers are mainly referred to under the head of "Masters." Amongst the later legal arrangements is an Act of 1880 (43 & 44 Vic. c. 16) to amend the law relating to the payment of wages and rating of merchant seamen. In the same year another Act was passed (43 & 44 Vic. c. 42) to extend and regulate the liability of employers to make compensation for personal injuries suffered by workmen in their service. Under the previous law, an employer was not usually liable for personal injury inflicted upon a servant in the course of his ordinary avocation by reason of the act or omission of a fellow-servant. The Act reverses the presumption, and throws upon the employer the onus of disproving his liability, failing which he is liable for compensation not exceeding an amount equal to the aggregate earnings of three previous years in the same occupation.

Emphyteuses. A kind of perpetual lease.

Enabling Statute is an Act that gives the power of doing something that could not be legally done before, as distinguished from a statute having a restrictive effect.

Enclosures. See "Commons."

Endowed Schools. The leading Acts relating to this subject are 32 & 33 Vic. c. 56; 36 & 37 Vic. c. 87; 37 & 38 Vic. c. 87. An Act of 1879 (42 & 43 Vic. c. 66) was passed to continue for a further period the power of making schemes under the before-mentioned Acts. They were formerly subject to the supervision of an Endowed Schools Commission, which was absorbed by the Charity Commissioners under the Endowed Schools Act, 1874.

Enfeoff. See "Feoffment."

Enfranchise legally signifies to make a man free. It is also used to denote the conversion of copyhold into freehold. It is popularly regarded as giving a person or district the right to vote for or return a member or members to parliament.

Engross is to put a document into professional form.

Engrossing. See "Forestalling."

Enlarge, in legal phraseology, means to give more time ; or otherwise, it is applied when the tenure of an estate is improved, as from a copyhold to a freehold, or where a disentailment is effected.

Enlistments are governed by the current Mutiny Act.

Enrolment is entering anything upon the rolls.

Entail. See "Tail."

Entering Appearance has the legal effect of submitting to the judgment of the court.

Entry, Right of, is when a person is entitled to enter upon land or building without first resorting to any legal process.

Writ of Entry is when the issuer asserts that the person in possession has entered unlawfully.

Enure is to take effect in favour of some one.

Epidemics. New provisions on this subject are contained in the Epidemic and other Diseases Prevention Act, 1883.

Epping Forest. The special Acts for dealing with Epping Forest originated with one in 1871 (34 & 35 Vic. c. 98), followed by others in 1872 (35 & 36 Vic. c. 95), 1873, 1875, and 1876 (39 Vic. c. 8), the last being passed for the extension of time wherein to report.

Equity. The meaning of equity, as professionally understood, cannot be precisely defined. It can only be generally arrived at by reference to proceedings in chancery, which have always professed to be founded upon equity as distinguished from law. In practice, the course of equity is to qualify the law wherever it seems to be over-strained, or to make it more stringent where it seems to be lax. Equity has always been the resort of persons who have got into legal entanglement, and has generally arisen out of circumstances concerning which there was no law. Hence, decisions in equity are very conflicting, uncertain, sometimes quite unreliable, and liable to be reversed or set aside on appeal to any extent. As a general rule, proceedings in equity cannot be taken when the facts are disputed. Equity cannot intervene until the facts are agreed upon, when, if required, equity steps in to decide as to the

interpretation of the facts. Previously to 1873 a court of law could not entertain or decide upon points of equity, and an equity court could not act in matters of law; but by the Judicature Act of that year, law and equity were what is called fused, and each court is enlarged so as to include both law and equity, subject to current rules of procedure.

Equity Courts were formerly limited to the Court of Chancery and its branches, but now every court may deal with cases upon grounds of equity.

Equity Draftsman is a barrister who prepares or *draws* the grounds of action or defence for a case in equity.

Equity of Redemption is the right of every mortgagor to redeem his property by paying the debt, interest, and costs.

Equity to a Settlement was formerly the right of a wife to compel her husband to settle upon her the whole or a portion of the property he acquired by his marriage with her. Everything of the kind is rendered obsolete by the Married Women's Property Act, 1882.

Equitable Defence is one set up on grounds of equity.

Equitable Estate is the right to the benefit of an estate as distinguished from the right to its control. Thus, an executor or other trustee is the legal owner, because he has to a certain extent the power of control and disposal, but the equitable estate or ultimate benefit belongs to the *cestui que trust*, or person or persons on whose behalf the trustee is acting.

Equitable Mortgage is when a person has virtually pledged his property as security, though he has not executed a formal mortgage, and such a mortgage can be enforced by proceedings in equity. The most usual form of equitable mortgage is the deposit of deeds, which course is expressly recognized as having the effect of a mortgage.

Equitable Waste is when the legal owner of an estate deals with it so as to be illegally prejudicial to the equitable owner. In this connection the legal owner is generally the tenant for life, who, by pulling down buildings, felling ornamental timber, or other reckless depredations, diminishes the value of the equitable estate of the successor.

Errant means on successive journeys. The judges when on circuit are said to be errant.

Erraticum is something strayed.

Error. The name for the proceeding by which recourse is had to the Supreme Court. Error also lies from inferior courts of record, where the proceedings are according to the course

established by the common law, to the Queen's Bench Division, and then to the House of Lords after the judgment of the inferior court has been affirmed or reversed in the Queen's Bench Division.

Escambio is an authority to transfer a bill of exchange to a person beyond seas.

Escape Warrant. When a prisoner has escaped, the warrant for his re-arrest is so called.

Escheat, an incident of the tenure of land by knight service or in socage, by which, in case the tenant died without any heir, or was convicted of certain crimes, the land went to the superior lord, who, however, was bound to enter to make his title complete.

Escrow is a written memorandum or deed delivered subject to some condition to be performed by the party interested, until which condition be fulfilled the instrument is of no legal force, but becomes binding upon the giver as soon as the condition is complied with.

Escuage or Scutage. A pecuniary payment made to the king by his military tenants in lieu of military service.

Elisors. See "Elisors."

Esneey is the precedence allowed to the eldest of coparceners to choose which share of a divided estate she shall have.

Esplees. The material advantage derived from land, whether produce or rent.

Esquire. He who attended a knight in time of war and carried his shield. No estate, however large, confers this rank upon its owner. Esquires may be divided into five classes: 1. The younger sons of peers and their eldest sons. 2. The eldest sons of knights and their eldest sons. 3. The chiefs of ancient families are esquires by prescription. 4. Esquires by creation or office. Such are the heralds and serjeants-at-arms; judges and other officers of state, justices of the peace, and the higher naval and military officers, are designated esquires in their patents or commissions. Doctors in the several faculties and barristers-at-law are also esquires. None of these offices convey gentility to the posterity of the holders. 5. Those of the Knights of the Bath, each of whom appoints three to attend upon him at his installation and at coronations.

Esse. *In esse* is something certain and tangible, as distinguished from *in posse* or possibly attainable.

Essoin is an excuse for not appearing.

Essoin Day is the day when excuses are heard for non-appearance.

Estate, strictly speaking, can only apply to land, and the word does not apply to the land itself, but to the rights appertaining to it, those rights being more or less according to the nature of the rights or estate; thus there is the estate in fee, and fee tail, and estate in dower, and so on, some of which are quite apart from any right of control. No matter what the estate may be, it cannot be legally regarded as ownership, but only as a holding—freehold or otherwise—under the Crown, subject to any condition of holding or of confiscation that the Crown of old thought proper to impose, and still subject to any condition that may be in like manner imposed by parliament. Personal estate is a mere conceit, as there cannot be an estate in personal property.

Estates of the Realm. The three branches of the legislature—the Lords Spiritual, the Lords Temporal, and the Commons. It is a common error to suppose the king to be one of the estates of the realm.

Estoppel is something in a man's conduct which bars the remedy for a grievance which he might otherwise have obtained.

Estovers is the word which denotes the right of a commoner to cut wood for fuel from the trees growing on a common. A similar right generally attaches to a tenancy for life. Alimony is also sometimes called estovers.

Estreat is a copy or duplicate of an original document.

Estrepe is the act of committing waste. **Estrepement** is the dilapidation or result of waste.

Eviction is obtaining possession of land by legal process.

Evidence is the basis of all public legal proceedings. The law concerning evidence is chiefly derivable from various Acts for the amendment of the law of evidence, commencing in 1843 (6 & 7 Vic. c. 85); further elucidated in 1851 (14 & 15 Vic. c. 99); 1853 (16 & 17 Vic. c. 83); 1869 (32 & 33 Vic. c. 68). An Act of 1876 (39 & 40 Vic. c. 48) was passed to amend the law with reference to Bankers' Books Evidence. It recites that serious inconvenience has been occasioned to bankers and also to the public by reason of the ledgers and other account-books having been removed from the banks for the purpose of being produced in legal proceedings; to avoid which power is given to any judge of a superior court to require any bank to produce to the parties requiring them such accounts as may be desired for the purpose of evidence in legal proceedings.

The Documentary Evidence Act, 1868 (31 & 32 Vic. c. 87) was for the purpose of giving validity to documents produced in

evidence. It was amended in 1882 by an Act (45 Vic. c. 9) that gives special validity to documents printed by Her Majesty's stationery office.

Ex is a common law prefix, of which some of the following are examples.

Ex contractu, arising out of breach of contract.

Ex debito justiciæ, of right, not as of favour.

Ex delicto, in consequence of some wrong.

Ex gratia, as a favour.

Ex officio, by virtue of an office.

Ex parte, what one side only has to say.

Ex post facto, having reference to something previously done. As applied to a law, it means that it is retrospective in its effect.

Ex proprio motu, of his own motion.

Excambion. Exchange of two pieces of land.

Exception is a formal rejoinder to an answer in the course of an action.

Exchequer is the name of the Royal Treasury, of which the Premier for the time being is the first or chief lord.

Exchequer Bills. Bills of credit issued by authority of parliament.

Exchequer, Court of. One of the three superior courts of common law, now merged into the Supreme Court.

Excise Duty. An inland imposition paid sometimes upon the manufacture, sometimes upon the consumption of the commodity, or frequently upon the retail sale, which is the last stage before the consumption. Excise duties are based upon the current Excise Acts, which are renewed at short intervals with various changes.

Exclusion Bill. A bill introduced into parliament for the purpose of *excluding* James, Duke of York (afterwards James II.) from succeeding to the throne.

Execution. When a judgment has been recovered at law or in equity, the next and last step to be taken is the execution of the judgment, or putting the sentence of the law in force. This is performed by different writs of execution, according to the nature of the action and the judgment that has been recovered. In ordinary actions, where the judgment is for the recovery of money only (either by way of debt or damages), and not for the recovery of any specific chattel, the practice of the court is to allow the judgment creditor to have recourse to one of the three following writs of execution—the writ of *fieri facias*, that of *levari facias*, and that of *elegit* (see those titles respectively).

The judgment creditor may also, if his debt be not paid, apply to a judge in certain cases to commit the debtor to prison for non-payment. (See title "Debt, Imprisonment for.") Where the judgment is for recovery of a specific chattel, the process is by writ of *distringas*.

Execution of Criminals must be performed by the legal officer—the sheriff or his deputy. By the 6 & 7 Will. IV. c. 30 execution is not to be carried into effect until some days after the sentence. By 31 Vic. c. 24 the execution must take place within the walls of the prison, in presence of the sheriff, gaoler, chaplain, and surgeon of the prison, and such other officers of the prison as the sheriff requires.

Executor is a person appointed by will to administer the estate of a deceased person. An executor has precedence over all other persons, but may renounce, if he has not already interfered with the estate, by recording a renunciation in the registry of wills. When the executor is willing to accept the office, the property of the deceased vests in him from the moment of the testator's death. The will must be proved and probate thereof obtained. This may be done not less than seven days after the death of deceased, and not later than six months after, unless legal proceedings have prevented the granting of probate. The penalty for failing to prove within the stated time is £100 and ten per cent. extra duty. After probate the executor is bound to proceed with the disposal of the estate according to the will, relative to which he has extraordinary powers and responsibilities suggestive of the extremest caution.

Exempli gratia. As an example.

Exemplification is a copy or transcript.

Exequatur is the formal recognition of a consul by the government of the country where he is stationed, whereby the home department of such government is enjoined to regard him accordingly.

Exhibit is a written evidence produced or exhibited to prove something.

Explosives. The principal Act relating to this subject was passed in 1875 (38 Vic. c. 17); an Act to amend the laws with respect to manufacturing, keeping, selling, carrying, and importing gunpowder, nitro-glycerine, and other explosive substances. It has reference to the following matters: Manufacture and keeping of gunpowder; licensing of factories and magazines for gunpowder; regulating of factories and magazines for gunpowder; licensing and regulation of stores; retail dealing with

gunpowder; registration and regulation of registered premises; sale of gunpowder; conveyance of gunpowder; specially dangerous explosives; government supervision; inspection; accidents; power of search. Further provisions are contained in the Customs and Inland Revenue Act, 1883, relating to restricted goods; and in the Explosive Substances Act, 1883.

Extradition of Criminals. By 6 & 7 Vic. c. 75 (amended by 8 & 9 Vic. c. 120) provisions are made for carrying into effect a convention entered into between Her Majesty and the then King of the French (determinable at pleasure) for the apprehension and extradition of offenders in the two countries, respectively, in cases of murder or attempts to commit murder, forgery, or fraudulent bankruptcy. By 6 & 7 Vic. c. 76 a similar convention with America was ratified, and by 25 & 26 Vic. c. 70 power was given to carry into effect a similar convention with Denmark. In 1870 a general Act was passed upon the subject, called "The Extradition Act, 1870" (33 & 34 Vic. c. 52). This provides (sec. 2) that where an arrangement has been made with any foreign state with respect to the extradition of criminals, Her Majesty may, by order in council, apply the Act. Every such order is to be laid before parliament. The following restrictions (sec. 3) are put on the surrender of criminals: 1. No fugitive criminal shall be surrendered if the offence in respect of which his surrender is demanded is one of a political character, or if he prove that the requisition for his surrender has in fact been made with a view to try or punish him for an offence of a political character; or (2) unless provision is made by the law of that state, or by arrangement, that the fugitive criminal shall not, until he has been restored or had an opportunity of returning to Her Majesty's dominions, be detained or tried in that foreign state, or any offence committed prior to his surrender other than the extradition crime proved by the facts on which the extradition is grounded. (3) A fugitive criminal who has been accused of some crime within English jurisdiction, not being the offence for which his surrender is asked, or is undergoing any sentence in the United Kingdom, shall not be surrendered until he has been discharged, whether by acquittal or on expiration of his sentence or otherwise. (4) A fugitive criminal shall not be surrendered until the expiration of fifteen days from the date of his being committed to prison to await his surrender. The requisition (sec. 7) is to be made to a Secretary of State, who shall thereupon signify to a police magistrate that such requisition has been made. Such magistrate (sec. 8) may

thereupon issue a warrant for the apprehension of the accused person. Moreover, any police magistrate or justice of the peace may issue a similar warrant, on such information or complaint and such evidence as would justify the apprehension, if the alleged crime had been committed in the United Kingdom. A report of the fact of such issue is at once to be made to the Secretary of State. In the case (sec. 10) of a fugitive criminal accused of an extradition crime, if the foreign warrant authorizing the arrest be duly authenticated, and such evidence is produced as (subject to the provisions of this Act) would, according to the law of England, justify the committal for trial of the prisoner, if the crime of which he is accused had been committed in England, the police magistrate shall commit him to prison, but otherwise shall order him to be discharged. In the case of a fugitive criminal alleged to have been convicted of an extradition crime, if such evidence is produced as (subject to the provisions of the Act) would, according to the law of England, prove that the prisoner was convicted of such crime, the police magistrate shall commit him to prison, but otherwise order him to be discharged. If he commits such criminal to prison, he shall commit him to the Middlesex House of Detention, or to some other prison in Middlesex, there to await the warrant of a Secretary of State for his surrender, and shall forthwith send a report of the committal to a Secretary of State. At the end (sec. 11) of such fifteen days (or, if the prisoner applies for a writ of *habeas corpus*, after the decision of the court on the return to such writ) the Secretary of State may by warrant order the criminal to be surrendered. If the criminal (sec. 12) be not surrendered or taken out of the United Kingdom within two months, he is to be discharged. Depositions or statements on oath (sec. 14) taken in a foreign state and foreign certificates of conviction may, if properly authenticated, be received in evidence in proceedings under this Act. This Act (sec. 17), when applied by order in council, shall, unless otherwise provided by such order, extend to all British possessions, with certain modifications. By the interpretation clause, the term "justice of the peace" includes in Scotland any sheriff, sheriff's substitute, or magistrate. The term "extradition crime" means a crime which, if committed in Scotland or within British jurisdiction, would be one of the following crimes: Murder, and attempt and conspiracy to murder; manslaughter; counterfeiting coin; forgery; embezzlement and larceny; obtaining goods by false pretences; crimes by bankrupts against bankrupt

laws; fraud by a bailee, trustee, &c.; rape; abduction; child-stealing; burglary and housebreaking; arson; robbery with violence; threats by letter or otherwise with intent to extort; piracy by law of nations; sinking or destroying a ship at sea; assaults on board a ship on the high seas with intent to destroy life or do grievous bodily harm; revolt against the master of a ship. An Act of 1881 (44 & 45 Vic. c. 69) was passed to amend the law with respect to fugitive offenders in Her Majesty's dominions. The object of the Act is original in its scope, and provides for the transfer of criminal fugitives from one part of the British dominions to another, whenever a warrant is issued for such purpose. Power is given to apprehend the fugitive wherever he may be found, to submit the case to a magistrate of the locality where the arrest is made, who has power to back the warrant and so authorize the transfer of the fugitive to that part of the British dominions where the alleged offence was said to have been committed.

Extra-judicial is anything said or done by a judge when not officially engaged.

Extra-parochial. Not part of any parish.

Eyre, Justices in (*justiciarii in itinere*). Judges regularly established—if not first appointed by the Parliament of Northampton, A.D. 1176—in the 22nd year of Henry II., with a delegated power from the King's Great Court to make a circuit round the kingdom once in seven years for the purpose of trying causes. It is to the establishment of these itinerant justices that we owe the general uniformity of the law in this country. (See also "Circuits.")

Facio ut facias. I will do this if you will do that.

Factor is a broker who sells the goods of others in his own name. The Factors' Acts are those of 1823 (4 Geo. IV. c. 88); 1825 (6 Geo. IV. c. 94); 1842 (5 & 6 Vic. c. 39); which several Acts make provision with reference to a great variety of details. An Act of 1877 (40 & 41 Vic. c. 39) was passed to amend the Factors' Act. It deals more especially with warrants for goods and other documents usually entrusted to factors, and defines what are the rights and obligations of factors with reference to such documents.

Factories and Workshops. An Act of 1878 (41 Vic. c. 16) was passed to consolidate and amend the law relating to factories and workshops. It is divided into the following heads: Sanitary provisions; safety; employment and meal hours; holidays; education of children; certificates of fitness for em-

ployment ; accidents ; health in certain factories and workshops ; special restrictions as to employment, meals, and certificates of fitness ; special exceptions relaxing general law ; period of employment ; overtime ; night-work ; special exception for domestic and certain other factories and workshops ; inspection ; certifying surgeons ; fines ; legal proceedings ; factories and workshops in which the employment of young persons and children is restricted ; places forbidden for meals ; additional half-hour : overtime for perishable articles ; spell for five hours in certain textile factories during winter months ; non-textile factories ; print works ; bleaching and dyeing works ; earthenware works ; lucifer-match works ; percussion-cap works ; cartridge works ; paper-staining works ; fustian-cutting works ; blast furnaces ; copper mills ; iron mills ; foundries ; metal and indiarubber works ; paper mills ; glass works ; tobacco factories ; letter-press printing works ; bookbinding works ; flax scutch mills ; hat works ; rope works ; bakehouses ; lace warehouses ; shipbuilding ; quarries ; pit banks ; straw plaiting ; pillow-lace making ; glove making.

White Lead Factories are specially dealt with in the Factory and Workshop Act, 1883, which also deals with rules and certificates. (See also "Bakehouses.")

Faculty. A licence or authority ; in ecclesiastical law a privilege granted by the ordinary to a man by favour or indulgence to do that which otherwise by law he may not do, as to erect a monument in a church, &c.

Fairs. These institutions are very much akin to markets. A fair is a greater sort of market, recurring at more distant periods. No fair can be holden without grant from the Crown, or a prescription which supposes such a grant. Times of holding fairs and markets are either determined by the letters patent appointing the fair or market, or by usage ; or, since the 81 & 82 Vic. c. 51, sec. 3, by the Secretary of State. Statute 84 Vic. c. 12 gives power to the Home Secretary to abolish any fair on the representation of the magistrates that it is advisable to do so, and with the consent of the owner.

False Imprisonment. This occurs when any person is unlawfully detained under any circumstances of force, which becomes more serious when terror can be alleged, and is aggravated if the aggrieved person be given into custody on some false impression that he has acted dishonestly. False imprisonment is generally the subject of a civil action, but it may be proceeded upon by indictment.

False Pretence is when a person induces another to entrust him with money or other property upon a representation intended to deceive with reference to the property.

Faalty. Under the feudal system a promissory oath that the vassal should be faithful to the lord and defend him against all his enemies. This oath was taken with a reservation of the duty owing to the sovereign lord, the king.

Fee. A fee signifies, in general, an estate of inheritance, being the highest and most extensive interest that a man can have in a feud. Estates of inheritance are either estates in fee simple or estates in fee tail. An estate in fee simple is that which a man has to hold to him and his heirs general, and is the largest estate in land known to the law. An estate in fee tail is an estate held by a man to him and the heirs of his body. (See "Tail" and "Knight's Service.")

Felo de se is felonious or wilful suicide. An Act of 1882 (45 & 46 Vic. c. 19) was passed to amend the law with reference to the interment of persons against whom a verdict of *felo de se* has been returned. Previously to 1823 the custom was to bury the body in a public highway, with a stake driven through the body. By an Act of that year (4 Geo. IV. c. 52) that practice was forbidden, and provision made for burial, within twenty-four hours after verdict, between nine and twelve at night in the churchyard, in private and without Christian rites. The Act of 1882 withdraws the condition of twenty-four hours and night-time, but leaves the law otherwise in the same state as by the Act of 1823. Previously to 1870 the goods of such a suicide were forfeited to the Crown, but the Felony Act of that year abolished such forfeitures.

Felon is one who commits a felony.

Felony was originally such a crime as rendered the criminal liable to death and forfeiture of lands and goods. The wholesale manner in which the death penalty was formerly inflicted has long since become matter of disgraceful history, and forfeiture of property for felony was abolished by the Felony Act, 1870 (33 & 34 Vic. c. 23). The definition of a felony is therefore every offence which by statute is declared to be a felony, as distinguished from a misdemeanour.

Feme covert is a married woman.

Feme sole is an unmarried woman.

Fence. The rule as to ownership of a hedge and ditch fence is that the ditch belongs to the field on the other side of the hedge, unless there is positive proof to the contrary; and of

course the hedge must belong to the same field. Ownership of a fence, therefore, sometimes implies very valuable privileges and rights; but it also imposes duties. The owner of a fence is responsible for the consequences of the fence being out of repair, whereby if his own cattle stray upon his neighbour's land he is liable for the damage they do; but if his neighbour's cattle stray on his land he has no legal right to compensation, but, on the contrary, is responsible for any harm the cattle come to while on his land. This obligation to keep fences in repair is so full of significance, that if B, for his own satisfaction, repairs the fence which originally belonged to A, and A makes no remark, and twenty years elapse while such is done and suffered, the ownership of the fence may become vested in B, unless there be some countervailing circumstance of great weight to the contrary.

Feoffment is the transfer of the fee from one person to another, whereby the latter becomes enfeoffed.

Feræ Naturæ is the designation of wild animals and birds, especially game.

Ferry, in law, is the exclusive right to carry passengers across a river.

Feudum. The same as fee.

Feudal System. This expression denotes the system upon which land is held under feu of the Crown, formerly in the absolute discretion of the Crown, but now reduced to nominal terms, though still theoretically recognized and forming an essential part of landed tenure.

Fiat is a peremptory command signifying "let it be done."

Fictions are pretences or claims presumed upon in actions for the purpose of forcing certain decisions with a view to ulterior proceedings, or to establish some position by a legal decision. In some cases a long and costly action is sometimes based upon the fiction that the parties are antagonistic, when in reality they are friends in collusion. If the collusion is disclosed the court has power to put an end to the proceedings, but it is notorious that some fictitious proceedings are allowed to go on without the power being exercised.

Fiduciary is the character of the position of one who is intrusted with the property or business of another on the presumption that he is worthy of the confidence reposed in him. Thus a solicitor is in a fiduciary position with reference to his client, the agent to his principal, the guardian to his ward, and so on.

Fieri facias. A writ of execution directed by a judgment creditor to the sheriff, directing him that he cause seizure

of the goods and chattels of the party for the debt recovered. This lies as well against privileged persons, peers, &c., as other common persons, and against executors or administrators with regard to the goods of the deceased. The sheriff may not break open any outer doors to execute this writ, but must enter peaceably; when, however, he has entered the house he may break open an inner door in order to take the goods. And he may sell the goods and chattels of the party against whom the writ is issued, including even his estate for years, or his growing crops, till he has raised enough to satisfy the judgment. This, however, is subject to such restrictions as the law has deemed it reasonable to impose for the protection of landlords.

Fifteenths. A tribute or imposition of money, anciently laid generally on cities, boroughs, &c., throughout the realm; it amounted to a fifteenth of that which every city or town was valued at, or of every man's personal estate.

Finder of Lost Property. The finding of lost property does not confer ownership thereof. It is the duty of the finder to give the property up to the public authorities, or at least to make an effort to discover who the owner is. Otherwise, the finder, if he appropriates the property to his own use without troubling as to who may be the owner, is liable to be prosecuted for larceny.

Fines, Statute of. An Act passed 4 Henry VII. Its object appears to have been to put a check, by establishing a short term of prescription, on suits for the recovery of lands, which, after the violence and disturbance that had taken place in the course of the Wars of the Roses, were naturally springing up in the courts. It enacted that a fine levied with proclamations in a public court of justice shall, after five years, except under particular circumstances, be a bar to all claims upon lands. It was afterwards made use of to enable a tenant in tail to cut off the entail, but it does not appear to have had that effect till a decision which was given in 19 Henry VIII. From that time fines and recoveries (both of them being a sort of fictitious legal proceeding) continued to be the ordinary means resorted to by a tenant in tail to cut off the entail, until a simpler process was established by the Act for the abolition of fines and recoveries (8 & 4 Will. IV. c. 74).

Fire. A person on whose premises a fire accidentally occurs is not liable for any damage it may occasion to others. This was settled in 1774 by 14 Geo. III. c. 78, and has been since confirmed.

Fire Brigades. Metropolitan fire brigades are subject to 28 & 29 Vic. c. 20.

Fire-bote is wood enough for the fuel of a house, with reference to limitation of the right of estovers.

Fire Insurance. Any person or body of persons may undertake fire insurance without licence or other public obligation, with liberty to insure or to refuse to insure, or to renew or refuse renewal of insurance. The property insured must belong to the insurer or the insurance is void, and if the property is sold or removed from the premises the insurance lapses. If an insurance is offered to a fire-office and a deposit is accepted thereon, the office is liable should a fire take place during the time reserved upon the receipt for the deposit. The acceptance of the premium renders the office liable for not more than one year and days of grace, usually fifteen. A fire during the days of grace fully commits the office. The office, if it can reinstate the property or premises burnt, is at liberty to insist upon doing so instead of paying the amount stipulated for in the policy. In case of non-fulfilment of contract, the office is liable to be sued as for a common debt.

Fireworks are subject to 23 & 24 Vic. c. 139, which restrains all persons concerned in their manufacture, sale, and use.

First-class Misdemeanant. This distinction was created by the Prisons Act, 1865 (28 & 29 Vic. c. 125, sec. 67), whereby it is in the discretion of the court that sentences a prisoner for misdemeanour to order that he be imprisoned as of the first division, and then that he is not to be regarded as a criminal, and is to have indulgences not extended to common misdemeanants.

Firstfruits. See "Queen Anne's Bounty."

Fisheries. Numerous Acts on the subject of fisheries, chiefly with regard to salmon in rivers, and otherwise based upon the "Sea Fisheries Act," 1868, are supplemented by several of later date. In 1875 the Act to amend the "Sea Fisheries Act," 1868 (38 Vic. c. 15), was passed for the purpose of placing oyster fishery companies under the control of the inspectors of fisheries. In the same year there was an Act (38 Vic. c. 18) to provide for the establishment of a close time in the seal fishery in the seas adjacent to the eastern coasts of Greenland. In 1876 there was an Act (39 & 40 Vic. c. 19) to amend the law relating to salmon fisheries in England and Wales, which has special reference to the killing of trout. In the same year another Act (39 & 40 Vic. c. 84) provided for a close period for elvers or the

fry of eels. In 1877 there was an Act (40 & 41 Vic. c. 42) to amend the law relating to the fisheries of oysters, crabs, and lobsters, and other sea fisheries. In 1879 there was an Act (42 & 43 Vic. c. 26) to amend the Salmon Fishery Act with relation to fixed engines in tidal waters, which limits the use of putts and putchers to the period in each year between May 1 and Sept. 1. An Act of 1881 (44 Vic. c. 11) was passed to amend the law relating to sea fisheries by providing for the protection of clam and other bait beds.

Sea Fisheries. Important new regulations on this subject are contained in the Sea Fisheries Act, 1883. It includes in its schedules a full copy of an important international convention between England, France, Germany, Denmark, Belgium, and the Netherlands, as to regulations outside territorial waters, and the Act is for the purpose of enforcing special regulations arising out of that convention, subject to penalties for infringements.

Fishing Boats and Fishing Hands. New regulations of a very important character, as to the manning and service of fishing boats, are contained in the Merchant Shipping (Fishing Boats) Act, 1883. It makes distinctions as to the sizes of vessels, and the provisions apply variously according to those distinctions. The Act deals comprehensively with apprenticeship to the sea fishing service, and agreements with boys under sixteen with respect to such service; agreements with seamen; wages and discharge of seamen; discipline; certificates to skippers and second hands; provisions relating to deaths, injuries, punishments, ill-treatment, and casualties; disputes between skippers or owners and seamen; lodging-houses and miscellaneous other particulars. (See also "Salmon Fisheries" and "Seal Fisheries.")

Fishing is sometimes the exclusive right of individuals with reference to certain waters. In such cases the public have no right to fish, and every person who does so is liable to proceedings and penalty.

Fish Royal belong to the Crown, and include whales and sturgeons when cast ashore, but not if taken in the ordinary course of a fisherman's avocation.

Five Mile Act. An Act passed shortly after the Restoration, by which those divines who had been deprived of their benefices for nonconformity were prohibited from coming within five miles of any town governed by a corporation, of any town which was represented in parliament, or of any town where they had themselves resided as ministers, unless they subscribed the declaration required by the Act of Uniformity. The severity of this Act

was much mitigated in favour of Protestant dissenters by the Toleration Act of 1 Will. and Mary.

Fixtures. This is a subject that generally commands most attention when a tenant is about to relinquish occupation. Everything upon the premises at the time of entry belongs to the landlord, unless there be something very unusual to the contrary, and the same applies to all added by the landlord. As a general rule, all buildings and erections of a permanent character belong to the landlord though put up by the tenant, but everything partially fixed by the tenant at his expense may be removed by him. This applies to chimney-pieces, grates, fire-places, wainscots, cornices, hanging-pegs, cupboards, and shelves fixed by holdfasts, ovens, furnaces, pumps, pipes, bells, bell-wires, and all ornaments, providing that serious dilapidation must not be committed in disengaging the various articles, and nothing must be removed that was fixed in lieu of something originally belonging to the landlord.

Trade Fixtures. These include everything appertaining to the trade of the tenant, if put in by him, and all buildings *bonâ fide* newly erected and for exclusively trade purposes. The whole belong to the tenant and may be removed by him.

Danger of Delay and Carelessness. If the tenant is dilatory and fails to remove his fixtures before his term has expired, the landlord is entitled to enter and to detain everything that is not already unfixed; and, should the tenant go away under the impression that he may return after his term has expired and remove his fixtures, the landlord is then entitled to refuse to allow them to be removed, and they become his property if he insists upon it. In transferring fixtures to an incoming tenant, there is often some risk that they may spontaneously transfer themselves to the landlord instead; concerning which, it is desirable to insist upon the incoming tenant paying for them to the outgoing tenant before the term of the latter has expired.

Flagrante Delicto. Taken in the act of committing a crime.

Flotsam is where goods are cast into the sea and continue floating on the surface of the waves. These belong to the Crown if no owner appears to claim them; but if an owner appear, he is entitled to recover the possession.

Folcmote (*folc*, people, and *mote* or *gemote*, to assemble). In the Anglo-Saxon times, a sort of annual parliament or convention of the bishops, thanes, aldermen, and freemen, which assembled every May-day, and in which the laymen were sworn to defend one another and the king, and to preserve the laws of

the kingdom, after which they consulted of the common safety. According to other authorities, it was an inferior court of justice held before the king's reeve or steward.

Folio, in legal phraseology, signifies seventy-two words.

Forcible Entry, without express warrant, even though in the exercise of an abstract right, subjects the person so entering to imprisonment.

Foreclosure is the right of a mortgagee to set aside the mortgagee's equity of redemption upon the non-fulfilment of some express condition in the mortgage.

Foreign Enlistment. The Foreign Enlistment Act, 1870 (38 & 34 Vic. c. 90), imposes penalties on British subjects enlisting, without the licence of Her Majesty, in the service of a foreign state; on leaving Her Majesty's dominions with intent to serve a foreign state; or embarking persons under false representations as to service; and on taking illegally enlisted persons on board ship. Also on illegal ship-building and illegal expeditions. In case of any ship being built for a foreign state at war with a friendly state, and being afterwards employed in the military or naval service of such state, the presumption, until the contrary is proved, shall be that it was built with a view to being so employed. Penalties are also imposed on aiding the warlike equipment within the dominions of Her Majesty of a foreign ship which, at the time of her being in Her Majesty's dominions, is in the military or naval service of any foreign state at war with any friendly state; also on fitting out naval or military expeditions without Her Majesty's licence. Section 14 provides, that if, during the continuance of any war in which Her Majesty may be neutral, any ship, goods, or merchandise captured as prize of war within the territorial jurisdiction of Her Majesty, in violation of the neutrality of this realm, or captured by any ship, which may have been built, equipped, commissioned, or despatched, or the force of which may have been augmented contrary to the provisions of this Act, are brought within the limits of Her Majesty's dominions by the captor or any agent of the captor, or by any person having come into possession thereof with knowledge that the same was prize of war so captured as aforesaid, it shall be lawful for the original owner of such prize, or his agent, or for any person authorized in that behalf by the government of the foreign state to which such owner belongs, to make application to the Court of Admiralty for seizure and detention of such prize, and the court shall, on due proof of the facts, order such prize to be

restored. Section 23 authorizes the Secretary of State or chief executive authority, when satisfied that there is reasonable and probable cause for believing that a ship within Her Majesty's dominions has been or is being built, commissioned, or equipped contrary to this Act, and is about to be taken beyond the limits of such dominions, or that a ship is about to be despatched contrary to this Act, to issue a warrant to seize and search such ship and to detain the same until it has been either condemned or released by process of law.

Foreigner. See "Alien."

Forest Courts. These courts were instituted for the government of the royal forests in different parts of the kingdom, and for the punishment of all injuries done to the king's deer, to the vert or greensward, and to the covert in which the deer are lodged. Of late years, various statutes have been passed for the purposes of disafforesting the forests. These statutes generally create a court of one or more commissioners, whose duty it is to ascertain the boundaries of the forest and allot a part thereof to the Crown, in satisfaction of all forestal and other rights. They are sometimes authorized to construct roads, which are thereafter to be public highways, and to sell parts of the forest in order to defray expenses. The holders of forestal offices are ordinarily compensated out of the Land Revenues of the Crown, the management of the lands allotted to the Crown being committed after the disafforesting has taken effect to the Commissioners of Woods and Forests.

Forestalling (by statute 5 & 6 Ed. VI. c. 14) is described to be the buying or contracting for any merchandise or victual coming in the way to market; or persuading persons from bringing their goods or provisions there, or persuading them to enhance the price when there. This, as well as *engrossing*, which is the buying up of large quantities of corn or other dead victuals, and *regrating*, which is the buying up of such commodities in any market and selling them again in the same market, was looked upon as injurious to the public, as tending to enhance the price of provisions. These practices were accordingly made highly penal by several statutes. It was not till the passing of 7 & 8 Vic. c. 24 that the several offences of engrossing, forestalling, and regrating were utterly taken away and abolished, except as to London hay and straw markets.

Forfeiture. In cases of felony and *felo de se* forfeiture of property to the Crown formerly followed the verdict, but such forfeiture is now abolished in all cases.

Forgery is the fraudulent writing of any document or part or signature thereof, or the fraudulent alteration of any kind of writing, however slight; and the wilful insertion of a wrong date with intent to defraud is a forgery. The punishment for forgery varies from penal servitude for life to imprisonment for two years or less, with or without hard labour. The offence is expressly dealt with by the Forgery Act, 1861 (24 & 25 Vic. c. 98). Forgery of stock certificates is expressly provided against by 33 & 34 Vic. c. 58. (See "Medals.")

Forma Pauperis. This expression applies to persons who are allowed to sue without paying customary fees, and with various other indulgences. The grant of the privilege is in the discretion of the court, and will not be entertained unless the party is sworn to be worth less than £5 exclusive of clothing.

Franchise was formerly interpreted to mean the prerogative of the Crown vested in a subject, and conferring some privilege or immunity. In modern times it is almost limited to the right of voting at parliamentary elections.

Frank-pledge. See "Tything."

Fraud, in legal phraseology, does not necessarily mean a dishonesty, but only an artifice for gaining some end that may be justifiable from some points of view, but which is not for the public good, and therefore not sustainable.

Frauds, Statute of (29 Car. II. c. 3), is the primary basis of most of the contract and commercial law of modern times. It lays down principles which have ever since governed the trading customs and legislation of the country. It deals with a great variety of subjects, and the Act is one of those that every law student is under an obligation to study and master not only in the letter, but in the spirit which it imparts to the whole administration of commercial law.

Freebench is the widow's right to a third of the income from her late husband's copyhold, corresponding to dower.

Free Goods in Free Ships. This is a doctrine laid down by the Declaration of Paris, 1856, which commits all parties to the declaration to regard all goods in neutral vessels in time of war to be free from seizure by either of the belligerents, unless such goods are contraband of war.

Freehold. All estates in land are either freehold or less than freehold. A freehold estate—*liberum tenementum* or free tenement, as it was formerly called—is an estate either of inheritance or for life in lands or tenements of free tenure. (See also "Socage.")

Freeman, as applied to a borough, is one who is an occupier of twelve months' standing in the borough, not an alien, of full age, who has not received parochial relief for the previous twelve months, and who during that time has resided in the borough or within seven miles, and has been rated and has paid his rates for that time.

Freeman of London is an ancient privilege enjoyed by every son of a freeman, by serving a seven years' apprenticeship in the city, or by purchase, otherwise called redemption. It may also be conferred as a gift for honour or service.

Free Warren is the right to take and kill beasts and birds upon Crown lands.

Friendly Societies. The law relating to Friendly Societies was consolidated and amended by an Act of 1875 (38 & 39 Vic. c. 60), which deals with the following heads: The registry office; registry of societies; cancelling and suspension of registry; rules and amendments; duties and obligations of societies; privileges of societies; property and funds of societies; investments with National Debt Commissioners; loans to members; accumulating surplus of contributions for members' use; officers in receipt or charge of money; legal proceedings; disputes; special powers of registrars to be exercised on application from members; special resolutions, and proceedings which may be taken thereon; dissolution of societies; militia-men and volunteers not to lose benefits; limitations of benefits; payments on death of children; societies with branches; societies receiving contributions by collectors; cattle insurance and certain other societies; penalties; regulation of proceedings in county courts; public auditors; fees; payment of salaries and expenses; evidence of documents; Isle of Man; Channel Islands.

An Act of 1876 (39 & 40 Vic. c. 32) to amend the before-mentioned Act, provides for the conversion of registered societies into branches. It allows registered societies to contribute to the funds of other societies. A reduction is made in the fees payable by friendly societies for certificates of births and deaths when more than one certificate is required at the same time. A definition is given of what is to constitute an annual return, and other minor matters are treated of. An Act of 1879 (42 Vic. c. 9) defines societies receiving contributions by collectors to mean those that collect at a greater distance than ten miles from the registered office or principal place of business. An Act of 1882 (45 & 46 Vic. c. 85) repeals so much of the Act of 1875 as relates

to quinquennial returns of sickness and mortality, which are thereby rendered unnecessary so far as legal obligations are concerned.

Illegitimacy and Intestacy. An Act of 1883 (46 & 47 Vic. c. 47) was passed to extend the power of nomination in friendly and industrial societies, and to make further provision for cases of intestacy in respect of personal property of small amount. The Act authorizes certain payments by friendly societies to illegitimate persons and to representative survivors of intestates, and exonerates all who make such payments in the manner prescribed.

Friendly Suit is one whereby the plaintiff and defendant have agreed to proceed to action in order to determine some legal point for mutual advantage or satisfaction. Such suits have been resorted to in all ages, and are sometimes notorious, but any court is technically entitled to stay the proceedings at discretion.

Fruit Pickers. By an Act of 1882 (45 & 46 Vic. c. 28) local authorities are specially empowered to make bylaws for regulating the manner in which fruit pickers are lodged while temporarily engaged in their respective districts.

Fugitive Offenders. See "Extradition."

Full Age. Twenty-one years.

Full Court was the presence of a certain number of judges, formerly required in certain cases, but abolished by the Judicature Act, 1873.

Funds, the Public. See "National Debt."

Gage (an abbreviation of "mortgage") is sometimes used as meaning a pledge or pawn.

Estates in Gage are those which are mortgaged.

Gale is the payment of rent.

Gale Day is the day appointed for paying rent.

Game. Property in game is theoretically vested in the Crown, which is the ostensible justification for requiring every one to be licensed to take and kill game before being entitled to do so, as the fees go to the Crown. The holder of a licence is restricted to legal days and hours; he must not sport during the night, nor on Sundays or Christmas Day, under penalty of £5. Sporting without a licence or out of season subjects the offender to a penalty of £25, or otherwise to a criminal prosecution, to which every person is liable for unlawful pursuit of game during the day, or for poaching (as it is called) during the night. It is unlawful to sell game without a licence, or to sell it on un-

licensed premises, subject to a penalty of £3 and £2 per head. Whoever buys of an unlicensed person, or elsewhere than on licensed premises, is liable to a penalty of £5 per head. According to the strictest definitions, game is limited to hares, pheasants, partridges, grouse, heath or moor game, black game and bustards; in a wider sense it includes deer, woodcocks, snipe, quails, landrails, and rabbits, concerning which some of the restrictions apply.

Close Time. Out of season is also called "close time." It applies to partridges from Feb. 1 to Sept. 1; pheasants, Feb. 1 to Oct. 1; grouse, Dec. 10 to Aug. 12; bustards, March 1 to Sept. 1; black game, Dec. 10 to Aug. 20. These dates vary slightly in some localities. (See also "Wild Birds.")

Ground Game. An Act of 1880 (43 & 44 Vic. c. 47) was passed for the better protection of occupiers of land against injury to their crops from ground game, which expression is interpreted to mean hares and rabbits. Under that Act every occupier of land has, as incident to and inseparable from his occupation, the right to kill and take ground game thereon, without licence, concurrently with any other person who may be entitled to kill and take game on the same land. The occupier may delegate the right to only one other person, who must be of his household or in his ordinary service for other purposes. Any covenant barring the right of an occupier in this respect is void, but night shooting is expressly prohibited, as also traps and poison, and taking game at unlawful times or during close time.

Game Licences for short periods are expressly provided for in the Customs and Inland Revenue Act, 1883.

Gangs Act, Agricultural (30 & 31 Vic. c. 130). This Act, after reciting that in certain counties in England certain persons known as gang-masters hire children, young persons, and women, with a view to contracting with farmers and others for the execution on their lands of various kinds of agricultural work, enacts various regulations to be observed by gang-masters, and requires them to obtain licences.

Gaol (used as synonymous with "prison") is literally a cage—for birds. (See also "Prisons.")

Gaol Delivery is the trial of all prisoners found in gaol.

Garnish is to warn.

Garnishee. It is provided by the Common Law Procedure Act, 1854 (17 & 18 Vic. c. 125, secs. 60–67), that a judgment creditor may apply to the court or a judge for a rule or order to have the debtor orally examined as to the debts owing to him by

any third person ; and may also apply to a judge for an order that all debts due from any third person (called the *garnishee*) to the judgment debtor be *attached* to answer the judgment debt ; the service of which order shall bind the debts in the garnishee's hands. . The Act also provides, that if the garnishee fails to appear upon summons to show cause why he should not pay the judgment creditor the debts attached, or so much as will suffice to pay the judgment debt—or if, on appearance, he fail to make such payment forthwith, and yet does not dispute the debt alleged to be due from him, the judge may order execution against him for the amount ; and that if, on the other hand he does dispute his liability, the judge may order that the judgment creditor be at liberty to proceed against him.

Garnishment is a notice to a person who is required to give information concerning a case before a court.

Garter, Order of the. An order of military knighthood, instituted by Edward III. about the year 1350.

Gavelkind. The name of a tenure of land. It appears to have been, before the Conquest, the general custom of the realm. At the present day it is to be found chiefly in Kent. The distinguishing properties of this tenure are principally the following: 1. The tenant is of age sufficient to aliene his estate at fifteen. 2. The estate has never escheated in case of an attainer for felony. 3. In most places the tenant had the power of devising his estate by will ; whereas before the statute of Henry VIII. the owners of land by other tenures had no such power. 4. The land descended to all the sons together.

Gazette, The London. The official newspaper of the government, said to have been first published at Oxford in 1665, when the court was held there on account of the plague. On the removal of the court to London, the title was changed to *The London Gazette*. It is published on Tuesdays and Fridays, and contains all the acts of state and proclamations ; also dissolutions of partnership and notices of proceedings in bankruptcy. It is evidence of such governmental proceedings as it contains.

General Agent, in law, is not an agent who deals in general, but who is instructed by his principal to act for him in general.

General Average. See "Average."

General Issue is the whole case and every part of it.

General Lien. See "Lien."

General Sessions. See "Quarter Sessions."

General Verdict is a verdict, one way or the other, without qualification of any kind.

General Warrant implies the power of arresting not only a particular person, but any person who may be suspected or impliedly indicated. Such a warrant is bad and cannot be legally proceeded upon.

Gentleman is legally defined as all above the rank of a yeoman.

Glebe is the land forming the life estate of a rector or vicar, as part of his source of income.

Gloucester, Statute of, is a celebrated Act passed by the Parliament at Gloucester in 1278, upon which is based much subsequent law.

God's Penny is earnest money.

Good Consideration. See "Consideration."

Goodwill, whether expressed or not, includes everything that can be conferred by a person upon another who acquires the goodwill of his business.

Grace. See "Days of Grace."

Grand Assize. A peculiar species of trial by jury, introduced in the time of Henry II., giving the tenant or defendant in a writ of right the alternative of a trial by battle or by his peers. Abolished by 3 & 4 Will. IV. c. 42, sec. 18.

Grand Jury. An inquisition composed of not less than twelve or more than twenty-three good and lawful men of a county, returned by the sheriff to every session of the peace, and every commission of oyer and terminer, and of general gaol delivery, who inquire, present, do and execute all those things which on the part of our lady the Queen shall then and there be commanded them. Grand jurymen ought to be freeholders; but to what amount is uncertain. The grand jury are previously instructed in the articles of their inquiry by a charge from the judge. They then withdraw to sit and receive indictments, which are preferred in the name of the Queen, but at the suit of any private prosecutor, and they are to hear evidence only on the part of the prosecution; for the finding of an indictment is only in the nature of an inquiry or accusation, afterwards to be tried; and the grand jury only inquire on their oaths whether there be sufficient cause to call upon the party accused to answer it. When the grand jury have heard the evidence, if they think it a groundless accusation they endorse upon the bill of indictment "not a true bill," or "not found;" the bill is then thrown out and the party accused is discharged. But, nevertheless, a fresh bill may subsequently be preferred to a subsequent grand jury. If they think a *prima facie* case is made out on behalf of

the prosecution, they endorse "a true bill;" the indictment is then found, and the party stands indicted. A majority of the grand jury must agree, that is, not less than twelve.

Grand Serjeanty. An ancient species of tenure, by which the tenant was bound, instead of serving the king in the wars, to do some special honorary service to the king in person—as to carry his banner, sword, or the like; or to be his butler, champion, or other officer at his coronation.

Grange is a farm or homestead, derived from "grain" or "granary," including accommodation for live stock.

Grant is a transfer of property by writing independently of the physical giving of it.

Gratuitous Deed is a deed without any consideration.

Gravamen is the essential part of an accusation.

Great Seal. The emblem of sovereignty, introduced by Edward the Confessor. The Lord Chancellor is the keeper of the Great Seal, and he is created by the mere delivery of the seal.

Gretna Green Marriages. The common law of Scotland recognizes parties to a marriage, though it be only evidenced by simple acknowledgment. It was formerly the custom for persons in England to elope and make all haste to the nearest point in Scotland (Gretna Green), where, for a small fee, a person would witness the declaration that suffices for a marriage in Scotland. Such is the law there still, but since 1856, by the Act 19 & 20 Vic. c. 96, a marriage in Scotland is void unless one of the parties to it has *bonâ fide* resided in that country for twenty-one days previously, which has put an end to the popular resort to Gretna Green.

Gross implies something appertaining to the person, and not to the property of the person.

Guaranty is an undertaking to be liable for something, and guarantee is to undertake a guaranty. A verbal guaranty is legally worthless, no matter how solemnly it is entered into; to be enforceable it must be in writing, unless it be by a lawyer *in court*, which is the only guaranty that is recognized without written evidence. Any writing, however informal, will suffice to commit a guarantor, but if for above £5 it must be stamped as an ordinary agreement. A guaranty, if in general terms, commits the guarantor to any amount; if an amount be named that is the limit. It may be also limited to any time or by any condition. If a time be mentioned the guarantor is committed irrevocably for that time; but if no time be mentioned, the

guaranty may be instantly revoked at any time (even a minute after it is written), and though a guaranty is worthless if not in writing, a verbal revocation is effectual if proved. The holder of a guaranty cannot enforce it if his loss concerning it is the result of his own culpable negligence or unbusiness-like conduct. A guaranty to borrow or to lend is worthless, and cannot be enforced in either case.

Guardian and Ward. The power and reciprocal duty of a guardian and ward are the same, *pro tempore*, as that of father and child. When the ward comes of age, the guardian is bound to give him an account of all that he has transacted on his behalf, and must answer for all losses by his wilful default or negligence. (See "Minority.")

Guardians of the Poor. By the Act known as Gilbert's Act (22 Geo. III. c. 83) parishes were authorized, by the consent of two-thirds in number and value of the owners or occupiers and with the approbation of two justices of the peace, to appoint guardians to act in lieu of overseers in all matters relative to the relief and management of the poor, and also to enter into voluntary unions with each other for the more convenient accommodation, maintenance, and employment of paupers. This method, being left to the option of the inhabitants, was not very frequently adopted; but by the Poor Law Amendment Act (4 & 5 Will. IV. c. 76) in connection with 10 & 11 Vic. c. 109, the Poor Law Board are empowered, where they think it desirable, to direct that the relief of the poor in any parish shall be administered by a Board of Guardians, to be elected by the owners of property and ratepayers in such parish. Further, where a number of parishes have been formed by the Poor Law Board into a *union*, a single Board of Guardians is elected by the owners and ratepayers of the component parishes for the relief and management of the poor in such union; and, by the consent of the guardians in any union, the component parishes may be united for the purpose of settlement and of rating, as well as that of relief and management; since, however, the passing of the Union Assessment Act, 1864 (see "Poor-Rate"), this provision has ceased to be of importance. Justices of the peace residing in a particular union are, under 4 & 5 Will. IV. c. 76, sec. 88, *ex officio* entitled to act as members of the Board of Guardians for such union, in addition to and in like manner as the elected guardians. The Board of Guardians constitutes a corporation, and may hold property for the benefit of the union. The workhouse or workhouses of the union are governed and

the relief of the poor administered by the guardians, so that it is not lawful for the overseer to give any further relief or allowance from the poor-rate than is ordered by the guardians, except in cases of urgent necessity. By the Marriage and Registration Acts (6 & 7 Will. IV. cc. 85, 86, and 7 Will. IV. and 1 Vic. c. 22); the Metropolitan Police Act (2 & 3 Vic. c. 71, sec. 41); the Act for Protection of Apprentices and Servants (14 & 15 Vic. c. 11); and the County Rate Act (15 & 16 Vic. c. 81), the guardians are now intrusted with various other duties, in addition to those connected with the administration of the poor law. The guardians are to meet once in every week or fortnight, and no act of any meeting shall be valid unless three guardians are present and concur therein. The guardians are in great measure subject to the orders of the Poor Law Board.

Guild is an association of a voluntary character of persons in fraternity.

Guildhall is where a guild meets. The use of the designation for a municipal building is not correct.

Gun Licenses are determined by the Gun License Act, 1870, and the date for their expiration is fixed at July 31 by the Customs and Inland Revenue Act, 1883.

Gunpowder. By an Act of 1882 (45 Vic. c. 3) licences may be granted permitting the use of gunpowder and other explosives in slate mines with a freedom prohibited in other cases. (See also "Explosives.")

Habeas Corpus. It had been provided by clause 39 of the Magna Charta of John, that "No free man shall be taken or imprisoned, or disseized, or outlawed, or banished, or any ways destroyed, nor will we pass upon him, nor will we send upon him, unless by the lawful judgment of his peers or by the law of the land." From the era, therefore, of King John's charter, it must have been a clear principle of our constitution that no man can be detained in prison without a trial. Thus the Act of Charles II., known as the Habeas Corpus Act (31 Car. II. c. 2), though it by no means introduced any new principle into our system, made the remedies against arbitrary imprisonment short, certain, and obtainable at all times and in all cases.

Habitual Criminals Act (32 & 33 Vic. c. 99). By this Act power is given to apprehend on suspicion convicted persons holding licences under the Penal Servitude Acts, 1853, 1857, and 1864. (See "Tickets of Leave.") Provision is also made for the registration of criminals, for the supervision by the police of persons twice convicted of felony, but who have not suffered

penal servitude; and stringent provisions are made as to the receivers of stolen goods.

Hackney Carriages. Hackney-carriages and stage-carriages (the former being what in general are termed cabs, and the latter omnibuses) are in most cases regulated by local Acts of Parliament. The provisions relating to stage-coaches in general are to be found in 2 & 3 Will. IV. c. 120, amended by 3 & 4 Will. IV. c. 48; 2 & 3 Vic. c. 66, and 5 & 6 Vic. c. 79. No carriage is to be kept as a stage-carriage unless a licence be obtained for it from the Board of Inland Revenue, which must be renewed from time to time; nor unless there be thereon such numbered plates and particulars as are directed by the Acts; and these particulars specify the name of the proprietor or one of the proprietors; the extreme places to which the licence extends, and the greatest number of inside and outside passengers which the carriage may lawfully carry. The subject of hackney-carriages and stage-carriages within the Metropolitan Police District has been dealt with in a later Act, "The Metropolitan Public Carriage Act, 1869" (32 & 33 Vic. c. 115). Section 6 of this Act provides that one of the secretaries of state may from time to time license to ply for hire, within the limits of this Act, hackney and stage-carriages, to be distinguished in such manner as he may direct: and such licences may be granted at such price, on such conditions, be in such form and generally be dealt with in such manner, as the Secretary of State may prescribe. Not more than two guineas per annum are to be paid for such licence. Penalties are imposed on the owners of carriages plying as hackney-carriages without a licence. Moreover the driver, and in the case of a stage-carriage the conductor, must be licensed. The sum payable for such licence is not to exceed in any case five shillings per annum. The Secretary of State may from time to time, by order, make regulations for all or any of the following purposes:—1. For regulating the number of persons to be carried in any hackney or stage-carriage, and in what manner such number is to be shown on such carriage, and how such hackney-carriages are to be furnished or fitted. 2. For fixing the stands of hackney-carriages, and the distances to which they may be compelled to take passengers, and the persons to attend at such stands. 3. For fixing the rates or fares, as well for time as distance, to be paid for hackney-carriages and for securing the due publication of such fares; provided that it shall not be made compulsory on the driver of any hackney-carriage to

take passengers at a less fare than the fare payable at the time of the passing of the Act. 4. For forming, in the case of hackney-carriages, a table of distances, as evidence for the purpose of any fare to be charged by distance. 5. For securing the safe custody and re-delivery of property left in hackney or stage-carriages. No hackney-carriage shall be compelled to take any passenger a greater distance for one drive than six miles.

Hanaper Office. In the ordinary, or legal, Court of Chancery is kept the *officina justitiæ*, out of which all original writs that pass under the great seal—all commissions of charitable uses, sewers, idiotcy, lunacy, and the like—do issue; and for which it is always open to the subject, who may there at any time demand and have, *ex debito justitiæ*, any writ that his occasions may call for.

Hawking. Every person is at liberty to sell anywhere or to any person goods or wares made by himself, which includes grinders, tinkers, and menders. Any person is entitled to sell anything in an authorized fair or market. Any person is entitled to sell to any person who buys to sell again in the way of trade; and licensed dealers in spirits, wine, or beer, are entitled to take orders anywhere for subsequent delivery. Any person is at liberty to sell anywhere or to any one all kinds of books, publications, printed papers, milk, fish, fruit, vegetables, or coals. But a person who is not included in one of the preceding exceptions must not hawk without a licence; and a hawker is defined as every person who goes to other men's houses, or from town to town, and carrying to sell any goods, wares, or merchandise, or exposing the same for sale, or carrying and exposing samples or patterns of goods to be afterwards delivered. A pedlar is a hawker who plies without a horse or any other beast. The full hawker's licence is available anywhere, and costs £4 per annum and £4 for every horse employed beyond one. The name of the hawker must be exhibited with number of licence. A pedlar's licence costs 5s. per annum, but is only available in one police district. The penalty for hawking without a licence is £10, for peddling 10s.

Hawking of Petroleum. By an Act of 1881 (44 & 45 Vic. c. 67) provision is made to regulate the hawking of petroleum and other substances of a like nature. The amount of petroleum conveyed at one time in any one carriage must not exceed twenty gallons; it must be in closed vessels free from leakage; the carriage must be so constructed that petroleum can-

not escape from it, and such carriage must be ventilated so as to prevent explosion; fire or light must not be brought near the carriage; the hawker must store his stock of petroleum with a view to avoiding the risk of explosion. Constables have summary power of interference in case of observing any infringement of the foregoing conditions.

Headborough. The head of a borough, a high constable. Under the feudal law he was an officer who had a principal government within his own pledge. (See "Tythings.")

Health. Very many Acts providing for the preservation and improvement of the public health have, during the past few years, issued from the legislature. It is impossible, within the limits of this work, to enter into full detail, but it will be useful to advert to such as are of a directly sanatory character, which relate either to the public health in general, or more particularly to the removal of nuisances.

I. By 11 & 12 Vic. c. 63 (called "The Public Health Act, 1848") a "General Board of Health" was constituted, consisting of the first commissioner of the Board of Works for the time being and of two other persons appointed by Her Majesty, to which board large powers were intrusted; and, amongst other things, the board was enabled, on the petition of a certain proportion of the rated inhabitants of any town, parish, or other place having a known and defined boundary, to direct an inspector to visit such place, and, on his report, to cause the Act to be applied thereto—in some cases, by procuring an order in council to that effect; in others, by a provisional order of the board, afterwards confirmed by parliament. And by a subsequent Act (21 & 22 Vic. c. 98) called "The Local Government Act, 1858," the 11 & 12 Vic. c. 63 was amended; and, amongst other points, in this important particular—that the sanatory arrangements and internal management was committed to the local authorities, instead of a central board established in London.

The 21 & 22 Vic. c. 98 has since been amended by the 24 and 25 Vic. c. 61, called "The Local Government Act (1858) Amendment Act, 1861," and the system of local government in force, in such districts as have adopted or shall hereafter adopt the Acts, is consequently to be ascertained by collating the provisions of the 11 & 12 Vic. c. 63, the 21 & 22 Vic. c. 98, and the 24 & 25 Vic. c. 61.

This system is in force in all places to which the 11 & 12 Vic. c. 63 was applied, either by order in council or by Act of Parliament, and, as to other places, it is in force wherever the Acts

are adopted. For which adoption neither order in council nor Act of Parliament is now required, but it takes place by other methods provided in that behalf.

In any place in which the Acts are in force, the duty of carrying them into execution devolves upon a "Local Board of Health;" which, as regards corporate boroughs, is to be the town council, and as regards other places is to be elected by the owners and ratepayers. And this board is charged with a great variety of duties, and is clothed with corresponding powers in relation to sewerage, scavenging and cleansing of streets and buildings; the repair of the highways within the district; the control of streets and roads; the supply of water, and a variety of other matters more or less closely connected with the sanitary improvement of the place. They have, further, the power to borrow money, purchase land and settle boundaries, and procure the repeal of local Acts through the agency of a principal secretary of state, who may issue a provisional order for such purposes, which must afterwards be confirmed by parliament. And the expenses connected with all these duties are to be defrayed out of local rates, to be made either prospectively or retrospectively, and to be levied in general on the occupiers of property liable to the poor rate.

II. By 18 & 19 Vic. c. 116, called "The Diseases Prevention Act, 1855" (amended by 21 & 22 Vic. c. 97, and 23 & 24 Vic. c. 77, secs. 10-15), it is provided that the Lords of the Privy Council, or any three or more of them (the Lord President being one), may, from time to time, cause to be made such inquiries as they see fit in relation to any matters concerning the public health, in any place or places; and that, when any part of England appears to be threatened with, or to be affected by, any formidable epidemic, endemic, or contagious disease, they may, by order, direct that Act to be put in force there; and while the same is so in force, may issue regulations and directions for speedy interments; for visitation from house to house; for the dispensing of medicines, guarding against the spread of disease, and affording such medical aid and accommodation as may be required. And it is enacted that the execution of all such directions issued by the Privy Council shall belong to the "local authority for executing that Act"—that is to say, to the guardians and overseers of each parish.

III. By 18 & 19 Vic. c. 121 (called "The Nuisances Removal Act for England, 1855"), amended by 23 & 24 Vic. c. 77, secs. 1-9, it is enacted that the "local authority" established for

the execution of that Act—that is, in general, “The Local Board of Health” of the place where such a body exists—shall appoint, or join with other local authorities in appointing for each place, a “Sanatory Inspector” or “Inspectors.” The duties of such inspectors shall be to attend at the office of the board and their meetings; to enter their minutes and keep their accounts; to examine into the state of facts with regard to nuisances; and generally to fulfil the instructions of the board as occasion may arise. And the local authority is also empowered to examine premises as to which suspicion exists or complaint is made; and to inspect articles of food exposed for sale or in the course of carriage or preparation for sale or use. And it may obtain an order from two justices of the peace in petty sessions (after summoning the offender before them) for the abatement or discontinuance of any nuisance that may have been found on such premises; or for the destruction of any article of food so examined which the justices may deem unfit for the food of man.

Heir is the successor by right of blood to an estate in fee.

Heir Apparent is one who, if he lives, must be the heir of some person—as the eldest son.

Heir Presumptive is one who is the heir with the liability of being superseded—as the brother of a childless owner.

Heirloom is a household chattel belonging to and going with a landed estate, from which it cannot be legally dissevered. It applies to family pictures, plate, &c.

Heptarchy. A general term for the seven petty independent kingdoms into which England was parcelled out by its early Anglian and Saxon conquerors. These were Kent, Sussex, Essex, Wessex, Northumbria, East Anglia, and Mercia.

Hereditaments are generally everything that is heirable.

Heretoch. Equivalent to the German Herzog, a name applied in Saxon times to those elected by the “folcmote” to conduct the armies of the kingdom. It was equivalent to the word “duke” in its primary signification.

Heriot. A tribute of goods and chattels payable, by custom in certain manors, to the lord of the manor on the decease of the owner of a customary or copyhold estate within the manor.

Hide of Land. As much land as might be ploughed with one plough, or as much as would maintain the family of a hide or mansion-house. According to different authorities, it was sixty, eighty, or one hundred acres. The quantity, probably, was determined by local usage.

High Steward, Court of the Lord. See title "Steward, Court of the Lord High."

Highways. The roads now in use in this country have either existed as such from time immemorial; or they have been constructed under the authority of Acts (chiefly local Acts) of Parliament; or they have been dedicated to the use of the public by private persons. Such a dedication arises when the owner of land, under certain circumstances, permits strangers to pass over it at their free will and pleasure for a certain length of time. The liability to keep highways in repair (in whatever manner they may have first originated) is in general thrown by the common law on the parishes in which they lie. In some cases, however, it attaches by prescription to particular townships, or other divisions of parishes, and in some cases to private individuals, bound by the tenure of their estates to repair some particular highway. Where an individual is bound to repair, he often claims (by grant or prescription) a toll of that species which is called a toll thorough, or (where the soil is his) a toll traverse. The case of bridges is differently provided for. The expense of maintaining these is defrayed (like that of maintaining roads) by the public—this having been part of the *trinoda necessitas*, to which every man's estate was by law subject, viz., the defence of the country against enemies, the maintenance of castles and the repairing of bridges. But, as a general rule, it is incumbent, not on the parishes, but on the county. Where a parish is bound by prescription (as is sometimes the case) to repair a bridge, there is a statutory provision (22 Hen. VIII. c. 5), which gives effect to any contract between the parish and the county for performing the repairs in future at the expense of the county. The liability of the county extended at common law, not only to the bridge itself, but to so much of the road as passed over the bridge, and even to so much of it as formed its ends or approaches, and by the above-named statute of Henry VIII. the county was bound to repair three hundred feet either way from the bridge. And such is still the state of the law as to all bridges built prior to the passing of the Highway Act, 5 & 6 Will. IV. c. 50. But by that statute it is provided, as to all bridges thereafter to be built, that the repair of the road itself passing over and adjoining to a bridge shall be done by the parish, or other parties bound to the general repairs of the road of which it forms a portion—the county being still subject, however, to its former obligation, as regards "the walls, banks, or fences of the raised causeways and raised approaches to any bridge, or the

land arches thereof." As to highways dedicated to the public, the same Act provides (section 23) that no road made at the expense of any individual or body corporate shall be deemed a highway which the parish is bound to repair, unless three calendar months' notice shall be given to the parish surveyor of an intention to dedicate such road to the public. Upon such notice being given, a vestry is to be called to consider whether the road is of sufficient utility to justify its being kept in repair by the parish, and in the event of the vestry holding the negative, the justices, at the next special sessions for the highways, are to determine the matter. Other provisions are made, the object of which is to insure that the road shall be originally constructed in a proper and substantial manner before the expense of repairing it is cast upon the parish. Any parish, county, or other party liable to repair a road or bridge and neglecting the duty, is liable to an indictment. Though the maintenance of all the highways in the kingdom is legally chargeable, either upon the parishes through which they respectively pass or on some particular district or individual, the expense of the most important and frequented roads is nevertheless chiefly defrayed by other means. They are kept in order (and many of them were originally constructed) under the authority of local Acts of Parliament, called Turnpike Acts, by which the management of such roads is usually vested for a certain term of years in trustees or commissioners, who are empowered to erect toll-gates and take tolls from passengers, as a fund for defraying the expenses of repairs or improvements. There is thus a distinction between highways in general and turnpike roads. It is to be understood, however, with regard to the latter, that the collection of toll does not supersede the other means provided by law for maintaining highways. If a turnpike road or bridge is suffered by the trustees to fall out of repair, the parishes, or other parties who would have been bound if there had been no turnpike trust to repair it, are still, in general, liable to that obligation. With respect to those highways or parts of highways which pass through and form the streets of towns, they are generally the subject of a distinct provision under Acts of Parliament of another kind, called "Paving Acts." In 10 & 11 Vic. c. 34 the ordinary provisions are consolidated.

The management of highways, other than those known as turnpike roads, is regulated in some cases by 5 & 6 Will. IV. c. 50 (amended by 4 & 5 Vic. cc. 51, 59, and 8 & 9 Vic. c. 71); in other cases by 25 & 26 Vic. c. 61. The general plan of

the former Acts is to place highways under the care of surveyors, to be appointed for the respective parishes (subject to a superintending power to be exercised, in certain cases, by justices of the peace, at special sessions to be holden for the highways), and to provide for the expenses connected with this subject by a rate on the occupiers of land, to be made and levied by the surveyor, on the same principle generally as the poor-rate. A surveyor of the highways is to be elected annually by the inhabitants in vestry assembled, and is to possess certain qualifications in point of property. When elected, he is compellable—unless he can show some grounds of exemption—to take upon himself the office; but he is permitted to appoint a deputy, who is subject to the same responsibilities as his principal. The vestry may appoint a surveyor, if they think proper, with a salary. Any two or more parishes may—by mutual agreement, and by consent of the justices of the peace at special sessions, or at quarter sessions—be united into one district, for the purposes of the Act, under the superintendence of a district surveyor. This officer is, however, to have no authority to make or levy the rate; but each parish must elect its own separate surveyor for that purpose. In case the population of a parish be more than 5000, a board of surveyors may be appointed, and such board may appoint collectors, an assistant surveyor, a clerk, and a treasurer. The principal duty of the surveyor is to keep the parish highways in repair; for default in which duty he is liable to a penalty of £5. Where, however, the obligation to repair is in dispute, the jurisdiction of the magistrates is ousted, and the only remedy is by indictment. Any injury done to a highway, by which it is rendered less commodious to the passengers, is a public nuisance and an indictable offence at common law, and any person is at liberty to abate the nuisance by removing the materials. At the common law, the course of an ancient highway could not be altered without the king's licence—to be obtained by suing out a writ of *ad quod damnum* and the finding an inquisition thereon—that the alteration would not be prejudicial to the public. But by 5 & 6 Will. IV. c. 50, any two justices of the division may (subject to certain conditions and restrictions) order highways to be widened or enlarged. Highways may also, in certain cases, be stopped up.

By 25 & 26 Vic. c. 61, above mentioned, the justices of any county are empowered by order of sessions to form it, or any part of it, into a highway district, which shall be governed by a "Highway Board," and in such board shall rest all the property,

liabilities, and, in general, all the powers which previously belonged to any surveyor of any parish forming part of the district. The Highway Board is to consist of waywardens—who are to be annually elected in the same manner and subject to the same qualifications as surveyors of the highways, from the several parishes within the district—together with the justices acting for the county and residing within the district. And the duties, powers, and liabilities of such Highway Board (who are to appoint a treasurer, clerk, and district surveyor) may be stated generally to be the same as those thrown by 5 & 6 Will. IV. c. 50 upon surveyors of the highways. With regard to the expenses incurred by the board, certain of these are authorized to be charged upon a district fund, to which the several parishes forming the district are to contribute; but the other expenses, and in particular the expenses of maintaining and keeping in repair its own highways (as in places where this Act is not adopted), are a separate charge upon each parish, and the sum required is to be raised and paid over to the treasurer of the board by the overseers, out of the poor-rates.

As to turnpike roads, they do not in general fall under the operation of the Acts relative to highways, but are regulated primarily by the local Acts relative to each particular road—which, though temporary, are continued by the legislature from time to time; and in the next place by statutes of a general description applicable (with very few exceptions) to all turnpike roads—that is, all roads maintained by tolls and placed under the management of trustees or commissioners for a limited period of time. Of these Acts on turnpike roads the 3 Geo. IV. c. 126 is the principal. The general effect of the leading provisions of these Acts is as follows:—Every trustee or commissioner of a turnpike road must possess a certain qualification in point of property. He must be sworn to a due execution of his duties, and is prohibited from holding any profitable office or contract under the Act of which he is trustee. The justices of the peace of the different counties or divisions through which the road passes are commissioners, *ex officio*, of the trust. The trustees are not only liable to maintain and keep in repair roads committed to their management, but to construct and maintain causeways at the side of them for the use of foot-passengers, to place milestones, and to widen, divert, or improve the roads as they may think fit. And for the latter purpose they are empowered to purchase land, and (subject to certain conditions and restrictions) to turn the road over the property of individuals,

and to take materials from the lands of private owners. To facilitate the performance of the duty relative to repairs they are also empowered (if they think proper) to contract, by the year or otherwise, with any person for repairing or amending the road, or any bridges or buildings thereon. The trustees are also bound to prevent or remove all nuisances or annoyances on the roads under their management, and they are to direct prosecutions for these offences or any other offence committed on the same. To meet the expenses incurred the trustees are to erect toll-gates; and the tolls are to be taken every day, the computation of them being from twelve at night till twelve the night following. They are to put up at every toll-gate a table of tolls, and to provide toll-tickets to acknowledge the receipt. No person, unless exempted, is to pass without paying; and if a passenger liable to pay refuses, the collector may seize and distrain the beast or carriage, or any of the goods and chattels of the passenger; and in default of payment within four days may sell the distress. If any dispute arises as to the amount of toll due, or the charges of a distress, it may be settled by any justice of the peace acting for the place where the toll-gate is situate. The trustees are empowered, on obtaining the previous consent in writing of a Secretary of State, to borrow money as they may think proper on the credit of the tolls, and may mortgage the tolls by way of security to the lenders. They may also let them to farm for three years at a time, subject to such regulations as the Acts prescribe, may compound for them with any person or persons for a year at a time, may reduce them (by consent of mortgagees), or may advance them to the full amount authorized by the particular Act. An Act of 1876 (39 & 40 Vic. c. 62) makes provision for the disposal of abandoned and exhausted gravel pits, &c., belonging to highway authorities. An Act of 1879 (42 & 43 Vic. c. 39) makes new provisions with respect to returns of receipts and expenditure by authorities of highways. An Act of 1882 (45 & 46 Vic. c. 27) gives to highway authorities additional powers for levying of rates; for erecting and maintaining milestones, and for fencing.

Hilary Term. A law term. It begins on Jan. 11 and ends on Jan. 31 in each year. It is so called from Hilary, Bishop of Poitiers.

Holding Over is retaining possession of land or premises after the term of the tenancy has expired. If following a landlord's notice to quit, it resumes the tenancy as before unless the landlord interposes. It following the tenant's notice to quit, the landlord is entitled to enforce double rent.

Holy Orders are the orders of the clergy of all ranks.

Homage is a ceremony implying that the person performing the ceremony acknowledges as his lord the person in respect of whom the ceremony is performed. In olden times homage was enforced as evidence of title, but it has long been obsolete.

Homicide is the killing of a human being (literally of a man). It may be justifiable, or excusable; otherwise it is manslaughter from culpable recklessness, or murder.

Honorarium, in law, is a barrister's fee, which is nominally payable in advance, and cannot be enforced by action for recovery.

Horse Guards. The name applied to a large public office in Whitehall, appropriated to the departments under the general commanding in chief. The word Horse-Guards is used conventionally to signify the military authorities at the head of the army affairs, in contradistinction to the civil chief, the Secretary for War.

Hotchpot arises in cases of intestacy, when there has been an advancement. The term is applied to various properties of different amounts put together, to be equally divided amongst the parties in it. For instance, a man has two daughters, his only children. He has thirty acres of land, and upon the marriage of one of the daughters he settles upon her ten acres of the land. The other daughter remains unmarried, and the father dies intestate. The married daughter must put her ten acres into hotchpot with the twenty acres, in order to obtain half the proceeds of the whole thirty, otherwise the unmarried daughter may retain the whole twenty. The option, in case of dispute, rests with the person advanced. If he is satisfied, he remains so. He cannot be compelled to submit to hotchpot; but if the administrator holds that the advancement is a sufficient satisfaction for the share, and the advanced person is dissatisfied with that decision, he must consent to hotchpot, or on refusal forfeits the share. Should the amount of advancement be put into hotchpot, and the share thence accruing exceed the amount, of course there is cause for felicitation; but if the share after all should prove to be less than the amount of advancement, the advanced party must submit, and so is a loser by the experiment. Thus the ten acres settled upon the married daughter may have been so improved by her husband as to have become of more value than the twenty acres remaining; in that case submission to hotchpot would of course be avoided. If there is not much difference between the estimated value of the advance-

ment and the anticipated value of the share, hotchpot should be avoided.

Hotels. See "Inns."

Housebote is timber for the repair of a house, which some commoners are entitled to take as a right of common of estovers. Nearly obsolete.

Housebreaking is entering a house in the day-time for the purpose of committing a felony.

House of Commons. See "Parliament."

House of Correction. A species of gaol which does not fall under the charge of the sheriff, but is governed by a keeper wholly independent of that officer.

House of Lords. See "Parliament."

Hundreds. Each county in England was in Anglo-Saxon times divided for the purposes of administering justice, into hundreds, and each hundred was subdivided into tythings.

Hundred-Court. A hundred-court is only a larger court-baron.

Husband and Wife. Under the common law as it was prior to 1870, husband and wife was a prominent and important department of legal study and difficulty, as involving such very numerous contingencies of great practical importance and complication. Much of the legal interest in the subject was destroyed by an Act of 1870, which Act was repealed by the Married Women's Property Act of 1882 (45 & 46 Vic. c. 75), under which the law of husband and wife (as formerly subsisting) has become a matter of history, of which only a few comparatively unimportant remnants survive. Since the 31st of December, 1882, all wives, whether married before that date or since, possess the same rights of property as if they were unmarried, their marriage making no difference whatever. The husband and wife, so far as property is concerned, were formerly amalgamated in the husband upon the dictum that they were one; but they are now as distinct as if not married, with all the rights and liabilities of two persons separately interested. The husband legally retains (as formerly) supreme personal control of his wife, who is legally bound to accord obedience to him in all things; but as regards their several properties they are two persons, with power to lend to or borrow from each other; to sue and to be sued by each other as if strangers; with the proviso that, so long as they live together, neither can sue the other for tort, nor prosecute the other for criminal misconduct. The husband is not liable for the wife's business debts, nor the wife

for the husband's ; but the husband is liable for the wife's debts for necessaries, though she is not liable for any of his debts of any kind. The husband is liable for the maintenance of his own children and of his wife's too, whether his own or those born before the marriage, but the wife is not liable for the husband's children unless they are also her own. In case either becomes a pauper, the other, if not a pauper, is liable to contribute to the maintenance, relative to which the husband is punishable whether he is able to maintain or not ; but the wife cannot be punished unless she can be proved to be able.

Hypothec, in the law of Scotland, is a security established by law in favour of a creditor over the property of his debtor ; as in the case of a landlord for his rent, a law-agent for his charges, &c.

Idiots. See "Lunatics."

Ignore is to pass by or take no notice of, or feign ignorance of. When a grand jury makes a return of "no bill," they are said to ignore the bill.

Illegitimacy. The rights of persons in savings-banks' deposits are, in numerous cases, not barred by illegitimacy. By an Act of 1883 (46 & 47 Vic. c. 47) the legal rights of illegitimate persons, with reference to savings-banks and friendly societies, are further defined and extended, and the manner of recognizing them provided. Upon other points see "Parent and Child."

Impanel is to make up the list of jurymen.

Imparance is time allowed wherein to plead.

Impeachment. An impeachment is a prosecution by the Commons of Great Britain in parliament before the Lords.

Impertinence is irrelevancy, or the raising of a plea that does not properly apply to the matter in hand.

Implication is an inference of something not stated.

Impound is to take possession of and retain anything in custody. It generally applies to stray cattle, or to cattle or other stock taken under a distress. In the practice of the courts it means the detention by a court of documents material to an action.

Impressment of Seamen. The power of impressing seafaring men for the sea service by the royal commission has been a matter of some dispute and submitted to with great reluctance. Yet it has been clearly shown by Sir Michael Foster that the practice of impressing, and granting powers to the Admiralty for that purpose, is of very ancient date, and has been uniformly continued by a regular series of precedents to the present time ; whence he concludes it to be part of the

common law. Its legality is now so fully established, that it can no longer admit of a doubt in a court of justice; indeed it is recognized and made the subject of particular provisions in various Acts of Parliament.

Impropriation was the transfer of the tithes of a benefice to a layman, who hence became the lay impropriator, of which we have some examples left. The transfer was evidently of a sacrilegious character, and appears to have often been corruptly done by some of the clergy for the sake of mercenary advantages for the time being conferred upon them in consideration of the tithes thus corruptly sold. Notwithstanding, the law has always respected the claims of lay impropriators, though such impropriation is no longer possible.

In Articulo Mortis, at the point of death.

In Capite signifies direct from the king.

In Esse is something in being or in force, as distinguished from what may be, which is *in posse*.

In Gross is belonging to the person.

In Limine, at the threshold, or in the preliminary stage.

In Re is translated "in the matter of."

In Rem implies legal proceedings in reference to property in dispute as distinguished from personal differences.

In Transitu. See "Stoppage in Transitu."

Incipitur is when the party in whose favour a judgment is recorded takes steps to put the judgment on the record.

Inclosure is the private appropriation of common land by the tenant in fee.

Inclosure Commissioners. This is a body of commissioners first constituted in 1845, by the Act 8 & 9 Vic. c. 118, charged with the superintendence of inclosures.

Income-tax. A tax imposed in 1842, and which has since been continued at so much in the pound on the profits arising from property, professions, trades, and offices. The income-tax had previously been introduced in 1798, repealed in 1802, revived in 1808, and again repealed in 1816. The tax is imposed in accordance with the current statutes on the subject, which are liable to alteration from year to year.

Incorporeal is the description of a right to something not being actually tangible or touchable, as a right of way.

Incumbent is universally applicable to the beneficed clergy of every rank. Three months' absence risks forfeiture of the benefice, but this is evaded in practice by the employment of substitutes.

Incumber is to mortgage.

Incumbrance is a mortgage.

Incumbrancer is a mortgagee.

Indemnity, Act of. Where a person has done an illegal act of such nature that he is exposed to some sort of penal consequences, and the circumstances under which he has committed the same seem to render it advisable to relieve him from these penal consequences, it is usual to pass an Act of Parliament for the purpose. Such an Act is called an Act of Indemnity.

Indenture. See "Deed."

Induction is the putting of a clergyman into possession of his benefice.

India. See "East Indian Company."

Indictment, a written accusation against one or more persons, of a crime of a public nature, preferred to, and presented upon oath by, a grand jury. It lies against all persons (except those under incapacity, as lunatics, &c.) who actually commit, or who procure and assist in the commission of crimes, or who knowingly harbour an offender. It consists of three principal parts—the commencement (or caption), the statement, and the conclusion. The caption is no part of the indictment; it is merely the style of the court where it is preferred, which is prefixed by way of preamble, when the record is made up, or when it is returned to a *certiorari*. The statement must be certain as to the party indicted, and as to the person against whom the offence was committed; and also as to the time and place, facts, circumstances, and intent. It must be positive, and neither double nor repugnant. There is in general no time limited for preferring an indictment, but by several statutes certain limitations for certain offences are fixed.

Indictment, in the Scotch law, is the form of process by which a criminal is brought to trial at the instance of the Lord Advocate. Where a private party is a principal prosecutor he brings his charge in what is termed the form of criminal letters.

Industrial and Provident Societies. In popular acceptance these are co-operative societies, being legally distinguished from friendly societies, and defined to be societies for carrying on any labour, trade, or handicraft, whether wholesale or retail, including the buying and selling of land, with the proviso that in any such society for carrying on banking, no member of such society shall have or claim an interest in the funds exceeding £200. The Industrial and Provident Societies Act, 1876 (39 & 40 Vic. c. 45), repeals all previous Acts on

the subject, and consolidates the law throughout with some amendments, as shown under the following headings: Existing Societies; Societies which may be Registered; Registry; Cancelling and Suspension of Registry; Rules and Amendments; Duties and Obligations of Societies; Privileges of Societies; Property and Funds of Societies; Officers in Receipt or Charge of Money; Disputes; Special Powers of Registrars; Special Resolutions; Dissolution of Societies; Penalties; Summary Procedure; Proceedings in County Courts; Public Auditors; Fees; Regulations. The broad result of the Act is that any seven or more persons can incorporate themselves by registering rules with the Registrar of Friendly Societies, and, being so incorporated, they can do almost anything! In many respects industrial societies are subject to conditions which make it necessary to refer also to "Friendly Societies."

Industrial Schools. By 24 & 25 Vic. c. 118, the Secretary of State for the Home Department may, upon the application of any school in which industrial training is provided, and in which children are clothed, lodged, and fed, direct an examination to be made into its condition; and, if satisfied with the report, may grant a certificate constituting such school a certified industrial school within the meaning of the Act. To such school is liable to be sent any child (not previously convicted of felony) who, being apparently under the age of twelve, has committed an offence punishable by imprisonment, or some less punishment; or who, being apparently under the age of fourteen, is found begging or receiving alms, or in any street or public place for that purpose, or found wandering without any home or settled place of abode, or visible means of subsistence, or frequenting the company of reputed thieves; or who, being under such age of fourteen, is represented by his parent not to be amenable to his control, and that he desires him to be sent to such school, and undertakes to pay for his maintenance there. Such a child may be brought by any person before two justices at petty sessions; who, after full inquiry into the facts of the case, may, if they think it expedient, order the child to be sent, for such period as they may think necessary for his education and training, to any certified industrial school, the managers of which shall be willing to receive him. But the Act requires that, if possible, a school shall be selected which is conducted in accordance with the religious persuasion to which the parent appears to belong; and a minister of such persuasion may visit the child for the purpose of religious instruction. The parent

also may be ordered to pay a weekly sum, not exceeding five shillings, for the expenses of the child's maintenance at school ; but the child cannot, under any circumstances, be detained there without his consent after he has attained the age of fifteen. The statute further enacts, that the guardians of any union or parish, wherein relief to the poor is administered by a Board of Guardians, may, if they deem proper (with consent of the Poor Law Board), contract with the managers of any certified industrial school for the maintenance and education of any pauper child. And that, in the representation of the Secretary of State for the Home Department, funds for the maintenance of any children sent to school under the Act—other than children sent at the desire of their parents, and upon their representation that they are unable to control them—may be contributed by the Treasury out of monies provided by Parliament.

Infancy. See "Minority" and "Guardian and Ward."

Inferior Courts are those that are subject to review by the superior courts. An Act of 1882 (45 & 46 Vic. c. 81) renders judgments obtained in certain inferior courts effectual in any other part of the kingdom.

In Forma Pauperis. Every poor person, who may have cause of action, is entitled to have writs according to the nature of the case, without paying the fees thereon, and the judges may assign him counsel and attorney, who act gratis. The party applying must swear that he is not worth £5 except his wearing apparel and the matter involved in the cause. This discretionary indulgence is confined to plaintiffs at common law, and is not granted to defendants in civil actions, but is sometimes extended to defences in criminal cases. A plaintiff must have a counsel's certificate of a good cause of action. No person can sue *in forma pauperis*, unless the case laid before counsel, and his opinion thereon, with the affidavit of the party or his attorney, that the same case contains a full and true statement of all the material facts, be produced before the court or judge to whom the application is made ; and no fees are payable to counsel or attorney, or to any official of the court, by reason of a verdict for such pauper, exceeding £5. Where a pauper omits to proceed to trial he may be called upon to show cause why he should not pay costs (though not dispaupered), and proceedings may be stayed until the costs are paid. A person admitted to sue *in forma pauperis* shall not in any case be entitled to costs from the opposite party, unless by order of the court or a judge. In equity, a pauper, under the circumstances

above stated, will be admitted to sue, and also to be sued, *in forma pauperis*. A person desirous of prosecuting a suit *in forma pauperis*, in the Probate or Divorce Court, must proceed, *mutatis mutandis*, as in the common law courts.

Information. One of the methods of prosecuting an offender is by filing an information against him. The information *ex officio* is a formal written suggestion of an offence committed, filed by the Queen's attorney-general in the Court of Queen's Bench, without the intervention of a grand jury. It lies for misdemeanours only, and not for felony, treason, or misprision of treason. The usual objects of an information *ex officio* are properly such enormous misdemeanours as peculiarly tend to disturb or endanger the Queen's government.

Informers, or common informers, is one who makes a trade of laying informations for the sake of getting the penalties or his share of them. In most modern provisions for penalties it is expressly provided that the whole of every penalty shall go to the Crown so as to discourage informers.

Infringement is an encroachment upon a right, usually referring to copyrights and patents.

Inheritance is landed property, descendible by heirship. It is governed by the Inheritance Act, 1833 (3 & 4 Will. IV. c. 106).

Inhibition is an order to prevent a judge from continuing any legal proceedings referred to.

Injunction. A prohibitory writ forbidding certain acts to be done. In former years, injunctions were only granted by the Court of Chancery; but by the Common Law Procedure Act, 1854, sec. 79, in all cases of breach of contract, or other injury, a writ of injunction may be obtained in the common law courts against the repetition of the injury complained of, and it may be claimed in the same action in which damages for the injury are sought to be recovered.

Inns. Every person who makes it his business to entertain travellers and passengers, and to provide lodging and necessaries for them, is an innkeeper, whether licensed for the sale of liquors or not. Within the scope of the obvious purpose of his establishment he is under legal obligation to receive and entertain all alike, whether man or beast, whether by day or night, whether on Sunday or any other day. He is entitled to make his own tariff of charges, however extravagant; but he must charge all alike, without prejudice to any individual, though he is entitled to demand prepayment of every one he reasonably suspects of being unable to pay. His customers are legally

entitled guests, and he is liable for the safety of the property of his guests while on his premises, without any qualification up to the amount of £30. Above that amount he is not liable unless the guest expressly delivers the property for safe keeping ; but this limitation does not extend to horses, carriages, harness, &c. In case the guest's property is stolen by any one but the guest's own friend the innkeeper is liable, but for destruction by fire he is not liable. The innkeeper is entitled to stop supplies or accommodation at any moment if payment for that already supplied is not effected on demand, and he is entitled to detain as a lien any and all property of the guest until the guest has discharged just claims upon him ; but he must not take anything from the person of his guest, nor detain his person, not even for a minute. There was formerly some doubt as to what the rights of an innkeeper were with reference to property so detained by him, but an Act of 1878 (41 & 42 Vic. c. 38) authorizes a landlord or manager of an inn to sell by auction anything held by him as a lien when it has been as such in his possession for six weeks, providing that one month before the sale he must advertise the chattels in detail, with notice of intended sale, in one London paper and one other paper that circulates in the district where the lien is held.

Inns of Court. These are certain corporate bodies, governed by benchers, which enjoy the exclusive privilege of conferring the rank or degree of barrister-at-law, without which no one can practise in the Supreme Court.

Inquest. See "Coroner."

Insanity. See "Lunatics."

Insects. See "Beetle."

Insolvent Debtors' Court. Abolished by the Bankruptcy Acts.

Inspectorship Deed is a document appointing a selection of creditors to have in charge and under inspection the estate of a debtor who is permitted to carry on a business under such inspection, subject to conditions prescribed, saving the rights of the creditors.

Institutes, in law, are in the nature of commentaries or digests, of which the most noted are Justinian's and those of Sir Edward Coke.

Institution is the ceremony of confirming a clergyman in the spiritual possession of his benefice.

Instrument, in law, is any written or printed document having an express legal force or application.

Insurance. See "Fire Insurance" and "Life Insurance."

Interlineation in a will, if of material importance, is generally fatal to the will, unless it can be sustained by collateral evidence; but interlineation in a deed is effective, unless there is collateral evidence that it was not there when the deed was delivered.

International Copyright was first established in 1844 by the Act 7 & 8 Vic. c. 12, upon which the subsequent law is based. Translations of foreign books are protected by the Act of 1852 (15 & 16 Vic. c. 12). Foreign works of art come under 25 & 26 Vic. c. 68, sec. 12. Translations of dramatic works come under the Act of 1875 (38 Vic. c. 12). See also "Copyright."

International Law, the law of nations, strictly so called, was in great measure unknown to antiquity, and is the slow growth of many centuries. It is the name given in modern times to a system of rules and principles, founded on general convenience, and mutually assented to and recognized by civilized nations. International rights and obligations are the rights and obligations recognized by the law of nations, as due from, and binding on, nations in their dealings with each other. The fundamental principles of international law are (1) that every nation possesses an exclusive sovereignty and jurisdiction in its own territory; (2) that no state or nation can by its laws directly affect or bind property out of its own territory, or persons not resident therein, whether natural-born subjects or others; (3) that all states and nations are *inter se* equal. Thus one country has no right to complain of the municipal laws of another, as such; but, on the other hand, if that other nation fails in its international duties, it is no answer for it to allege that its municipal laws do not enable it to fulfil its international duties. The principles of international law are to be gathered partly from the writings of great jurists, which, by common assent, are held among nations to be authoritative, and partly from precedents.

Interpleader. A legal process by which a person who is sued for the recovery of money or goods, wherein he has no interest, and which are also claimed of him by some third party, may relieve himself from the responsibility and leave the two claimants to fight out the question among themselves.

Interpretation is the part or parts of a statute which defines the meaning of certain words and expressions used in the Act.

Interrogatories are preliminary questions which either party to a pending action is entitled to require the other to answer before the hearing.

Intervention is when one person, privately or officially, takes steps to alter the result of an action or to set a judgment aside. This is expressly a right with reference to cases before the Divorce Court.

Intestate is one who dies without leaving a will.

Intestate Estate is the property that formerly belonged to an intestate. (See "Statute of Distributions.")

Small Intestate Estates. Special provisions on this subject are contained in an Act of 1883 (46 & 47 Vic. c. 47), especially with reference to the survivors of intestates who have claims upon trade and friendly societies.

Inure is to come into operation.

Inventory is a list of property frequently required to give validity to legal proceedings.

Investiture, or giving livery of seizin, was the mode in which the ownership in land was anciently transferred.

Invoice is a list of goods sold, with or without the price. The writing of an invoice is evidence of the sale of the goods and its acceptance that they are bought. The invoicing of goods, when they can be defined, immediately transfers the property in the goods to the purchaser, unless there be a condition reserving the transfer until some payment or other event.

Ipse Dixit, on the authority of one person, without other evidence.

Ipso Facto, by virtue of the fact, without anything else being necessary to sustain it.

Irish Church Act, 1869. This important Act (32 & 33 Vic. c. 42) was passed for the disestablishment and disendowment of the Irish Church.

Irish Land Acts. These have been numerous of various sorts. The Act of 1870 (33 & 34 Vic. c. 46) was the most notable of its time, but it was mainly superseded by that of 1881, under which the law of Landlord and Tenant is now based in Ireland, in striking contrast to corresponding law in England and Scotland.

Issue, in law, is the point of dispute in an action.

Jacobites, the name given, after the Revolution of 1688, to those who adhered to the dethroned King James II., and after his death to the cause of his descendants—the elder and the younger Pretenders.

Jactitation is a boastful allegation of something that is not true.

Jactitation of Marriage is when one person claims to be married to another though there be no such marriage, and the Divorce Court pronounces a decree to that effect, by which the claimant is liable to penalties for repeating the jactitation.

Jetsam is where goods are cast into the sea and there sink and remain under water. These belong to the Crown if no owner appears to claim them; but if any owner appears he is entitled to recover possession.

Jews. The Jews were formerly excluded from parliament by their inability to take the oath "upon the true faith of a Christian;" but by 21 & 22 Vic. c. 49 (amended by 23 & 24 Vic. c. 63), either House may now resolve that any person professing the Jewish religion may, in taking the oath required by law to enable him to sit in that House, omit the words which may tend to his exclusion. The Parliamentary Oaths Act, 1866 (29 Vic. c. 19), substitutes a new form of oath to be taken by all members; and in this oath the obnoxious words are omitted. The Permissory Oaths Act, 1868 (31 & 32 Vic. c. 72), provides sundry oaths to be taken on the acceptance of various offices, and all these oaths may be taken by Jews. By "the Office and Oath Act, 1867," all the Queen's subjects, without reference to their religious belief, are made eligible to hold the office of Lord Chancellor of Ireland. A Jew, however, is still excluded from various high offices, and cannot present to an ecclesiastical benefice belonging to an office in the gift of Her Majesty. By 9 & 10 Vic. c. 59 Jews are now placed, in respect of schools and places of worship, education or charitable purposes, on the same footing as Protestant dissenters. (See also "Marriage.")

Joint and Several means that every person concerned is liable to an action against himself personally, or as one of the parties should they be sued together.

Joint Committee is a committee composed of members of both Houses of Parliament, but the expression applies in many other connections.

Joint Stock Bank applies to every banking company except the Bank of England.

Joint Stock Companies. See "Companies."

Joint Tenancy is a holding of land by two or more persons in any other manner than by descent. Unless there is something to expressly provide to the contrary, the death of one of two joint tenants invests the survivor with the whole of the estate. It is, in this respect, the reverse of tenancy in common.

Jointure is a settlement of property upon a wife in such a

manner that the benefit of it accrues to her for life after she becomes a widow.

Judge is the president of a superior court. There are two grades of judges, the chief judge or chief justice, and the puisne or junior judges. The Supreme Court of Judicature Acts, 1873 and 1875, limit the number of judges to twenty-one exclusive of the Lord Chancellor; and the Act of 1877 (40 Vic. c. 9) authorizes the addition of one more judge.

Secondary Judges are denoted by a prefix or qualification, as a county court judge, the judge of the Lord Mayor's Court, &c.

Judge Advocate General is the nominal judge of courts martial, usually presided over, in fact, by a special commissioner or judge advocate.

Judge of the Arches is called the "Dean."

Judge Ordinary is the judge of the Probate Court when sitting in the Divorce Court.

Judge's Order is the decision of a judge in chambers.

Judgment Creditor is one who has obtained a judgment upon which he is entitled to proceed to execution.

Judgment Debt is a debt in respect of which a judgment has been obtained.

Judgment Summons is a summons to appear personally to show cause why imprisonment should not follow for non-payment of a debt. Since 1869 no person can be imprisoned until he has had an opportunity of appearing to a judgment summons.

Judicial Separation is a process of the Divorce Court which separates married persons as effectually as if they were divorced, with the proviso that they must not intermarry with other persons as long as they both live. Otherwise they are, in law, rendered as much separated as if strangers, with independent personal rights as if never married, the annoyance of one by the other being subject to severe punishment. The right to judicial separation accrues to either of the parties to a marriage when the other has committed adultery or cruelty, according to the interpretation put upon it by the Divorce Court; or if the party petitioned against has deserted the other for two years.

Judicial Committee of the Privy Council. A tribunal established in its present form by 2 & 3 Will. IV. c. 92, 3 & 4 Will. IV. c. 41, and 6 & 7 Vic. c. 88, for the disposal of appeals and such other matters as the Queen may refer to them. It is the court of appeal from the Admiralty and ecclesiastical courts,

and also from all the Indian and colonial courts, and the courts of the Channel Islands and the Isle of Man.

Junior Barrister applies to all who are below the rank of Queen's Council, and also to a barrister acting in court under a leader.

Jurat consists of the memoranda at the foot of an affidavit, stating when, where, and before whom it was sworn.

Juries. A person cannot serve on a jury unless fully twenty-one years of age, and may claim exemption if above sixty; but age does not disqualify if he is willing to serve. If he is not, and his name is on the list, it is his duty to take steps to have the name removed.

Disqualified or Exempted Persons. Those who are blind, deaf, or otherwise incapacitated; peers, members of parliament, judges, clergymen of every denomination, provided they engage in no secular employment except that of a schoolmaster; barristers, solicitors and their managing clerks, notaries public, officers of law courts, coroners, gaolers and their subordinates, keepers of public lunatic asylums, practising physicians and surgeons, qualified chemists and apothecaries, officers of the forces in full pay, officers under the Crown in almost every capacity, stipendiary magistrates and their subordinates, town councillors in some cases, to which there are numerous other exceptional and occasional exemptions. (See also "Challenge.")

Status of Juries. Every jurymen is entitled to six days' notice that his attendance is required (except for coroners' juries). Non-attendance incurs a penalty—generally £10. Attendance entitles to a certificate of exemption for twelve months after. Every jury must consist of twelve men, or five in a county court. Their verdict must be unanimous.

Special Juries. The qualification for a special jurymen is the rank of esquire (or higher), banker, merchant, or occupier of a private dwelling-house assessed at £100 or upwards in a town of 20,000 inhabitants, or £50 in a smaller town, where also occupation of any premises except a farm at £100 a year qualifies, or a farm at £300. Each special jurymen is entitled to a guinea or more at the discretion of the court. Long cases usually involve a guinea per day.

Grand Juries. For quarter sessions, common jurymen may serve as such, but at the assizes they are limited to gentlemen of rank. They act in private, and have unlimited power of ignoring a bill, and so finally discharging a prisoner without publishing the evidence or their reasons. (See "Grand Jury.")

Jury of Matrons. This consists of twelve middle-aged married women who are exclusively retained to determine whether a female prisoner is pregnant.

Jus, in right of.

Jus accrescendi, the survivorship rights of a joint tenant.

Jus ad rem, a right to which a person is entitled, but has not yet exercised.

Jus Civile, the civil law.

Jus Gentium, the law of nations.

Jus Habendi et Retinendi, the right to the income of a parsonage.

Jus in Personam, a right in favour of or opposed to particular persons—the reverse of *jus in rem*.

Jus in Re, absolute possession of right.

Jus in Rem, as against all the world.

Jus Patronatus, the right of presentation to a benefice.

Jus Recuperandi, the right of recovery.

Jus Tertii, the right of a third party.

Justices of the Peace. These are voluntary magistrates within their respective counties, each holding a commission from the Lord Chancellor. They are not paid directly or indirectly, but they have great powers personally and officially, in considerable disposal of patronage in their *ex officio* position as members of the Court of Quarter Sessions, which has the general government of each county respectively.

Justinian, Emperor of Rome, 526–565, erected for himself an enduring memorial by putting in systematic form the Roman law, upon which all the best of the jurisprudence of Europe has been based ever since, and which is the foundation recognized for the laws of every civilized nation in the world.

Keeper of the Great Seal, Lord. A judicial officer who used to be appointed in lieu of the Lord Chancellor.

Keeper of the Privy Seal. Now called the Lord Privy Seal, through whose hands all charters, &c., pass before they come to the Great Seal. The office of Lord Privy Seal is always held by a Cabinet Minister.

Keeping House is when a man shuts himself within his usual abode or place of business for the purpose of avoiding his liabilities. In certain contingencies it is a specific act of bankruptcy, upon which he is liable to be made a bankrupt in his absence.

Keeping Term is the process by which a candidate for the Bar qualifies himself by eating a stated number of dinners in

hall, as evidence that his manner of conducting himself is tolerable enough to warrant his admission amongst gentlemen.

Keeping the Peace is refraining from disorderly conduct especially with reference to personal assaults.

Kidnapping is the forcible and illegal removal of any person from one country to another. Of late years it applies almost exclusively to carrying persons into slavery. There is a Kidnapping Act, 1872 (35 & 36 Vic. c. 19), and another of 1875 (38 & 39 Vic. c. 51), both being for the protection of natives of the islands of the Pacific.

Kilkenny, Statute of. An Act passed by the Irish Parliament, in the reign of Richard II., imposing outrageous restrictions which have all been since abolished.

King-at-arms. The principal herald of England was of old designated King of the Heralds, a title which seems to have been exchanged for that of king-at-arms about the reign of Henry IV.

Knight. A title of honour. A knight ranks next to a baronet, and is entitled to be styled *Sir*, and his wife *Lady*. A knight is now made by the sovereign touching him with a sword as he kneels, and saying "Rise, Sir ——" The dignity is not hereditary.

Knights of the Shire. The technical name given to Members of Parliament for counties.

Knight-service. The first, most universal, and esteemed the most honourable species of ancient tenure of land, now totally abolished.

Labourers, Statute of. The consequences of the plague, known as the Black Death, which scourged England in 1348, are carefully detailed by contemporary writers. At first the reduction in the number of the consumers effected a proportionate reduction in the price of all merchantable articles. The ravages of the pestilence had been chiefly confined to the lower orders; for the more wealthy, by shutting themselves up in their castles, had in great measure escaped the infection. But hence arose a great scarcity of labourers for the cultivation of land, and of artisans to construct or repair the implements of husbandry. To remedy the evil, Edward III. published a proclamation prohibiting the relief of mendicants able to work, and compelling all men and women in good health, under the age of sixty, and without visible means of subsistence, to hire themselves as servants, at the same wages as in former years, to any masters who should be willing to employ them.

But this was easily evaded and eluded. Consequently, in the next parliament a statute was passed (since known as the Statute of Labourers) by which the amount of wages to be given to different classes was determined, and new penalties enacted against transgressors. The ordinary wages of workmen are thus stated in the Act: Haymakers, per day, without victuals, one penny; mowers, ditto, fivepence; reapers in the first week of August, twopence; ditto, in the next and succeeding weeks, threepence per day; thrashers, per quarter of wheat or rye, twopence-halfpenny; ditto, of barley, beans, peas, and oats, three-halfpence; carpenters, per day, twopence; plasterers, threepence; labourers, three-halfpence. Masters of the above trades, one penny per day more than their men. No man was allowed to work out of his neighbourhood, except the inhabitants of Staffordshire, Lancashire, Derbyshire, Craven, and the marshes of Scotland and Wales, who had always been accustomed to seek employment during the harvest in all parts of England.

Labourers' Dwellings. This subject has been frequently dealt with of late years, the leading statutes being the following:

1851 (14 & 15 Vic. c. 34). An Act to encourage the establishment of lodging-houses for the labouring classes. Long and elaborate.

1866 (29 Vic. c. 28). An Act to enable the Public Works Loan Commissioners to make advances towards the erection of dwellings for the labouring classes.

1867 (30 Vic. c. 28). An Act to amend the Labouring Classes' Dwellings Act, 1866. Very short.

1868 (31 & 32 Vic. c. 130). An Act to provide better dwellings for artizans and labourers.

1874 (37 & 38 Vic. c. 59). An Act to facilitate the erection of dwellings for working men on land belonging to municipal corporations.

1875 (38 & 39 Vic. c. 36). An Act for facilitating the improvement of the dwellings of the working classes in large towns. Very long and comprehensive.

1879 (42 & 43 Vic. c. 63). An Act to amend the Artizans' and Labourers' Dwellings Improvement Act, 1875.

1879 (42 & 43 Vic. c. 64). An Act to extend the powers of the Artizans' Dwellings Act, 1868, by provisions for compensation and rebuilding.

1880 (43 Vic. c. 8). An Act to explain and amend the twenty-second section of the Artizans' and Labourers' Dwellings Act, 1868; Amendment Act, 1869. Only twelve lines.

Labourers' Wages. See special provisions with reference to Bankruptcy and Companies in course of winding up.

Laches expresses the neglect or indifference of a man who supinely submits to a wrong until his acquiescence is taken to be an admission that it is not a wrong to which he is entitled to the intervention of the law.

Lammas Day is the 1st of August, so called because in ancient times some classes of tenants were required to produce on that day a live lamb in the church at high mass. It is the day upon which commoners of some stinted commons are at liberty to resume grazing, from which they are excluded during hay-time. Such commons are sometimes called Lammas lands, and are known as "stinted" commons because commoners are permitted to resort to them for only a limited period of each year.

Ladies of the Bedchamber. In 1839 Sir Robert Peel was called on to form a government, but failed, through the refusal of the Queen, by advice of Lords John Russell and Palmerston, to part with the ladies of her bedchamber, who were politically opposed to him. In 1840 he was again called upon, and on this occasion the Queen acceded to his demand that the ladies of her bedchamber should be replaced by others favourable to the minister.

Lancaster, Court of Duchy Chamber of. The Court of the Duchy Chamber of Lancaster is a court of special jurisdiction, held before the Chancellor of the Duchy or his deputy, concerning all matters in equity relating to lands holden of the Crown in right of the Duchy of Lancaster.

Land Revenues of the Crown. In order to prevent the landed estates of the Crown from being any further squandered, an Act was passed in the reign of Queen Anne, declaring that all future grants and leases by the Crown for any longer term than thirty-one years, or three lives, should be void. At the commencement of the reign of George III., these revenues, with all other hereditary revenues of the Crown, were given up by His Majesty to the aggregate funds of the nation; and in lieu thereof a civil list allowance was made to the king. This arrangement has since been made with each succeeding sovereign.

Land Tax is a survival or resumption of the dues to the Crown, formerly payable under the name of escutage or scutage. These were abolished through the influence of Cromwell and his associates, which abolition was confirmed immediately after the restoration of Charles II.; but, as there was no other adequate source of revenue at that time, a specific land tax was imposed

in 1692 (4 Will. III. c. 1) at the rate of four shillings in the pound upon the then value. This was continued annually until 1798, when it was made "perpetual" (88 Geo. III. c. 60), but upon a fixed basis of value, having the effect of exempting subsequent increments, whereby some land tax is at the rate of less than a penny in the pound, and all land tax is liable to redemption or extinguishment, a liberty that has been extensively resorted to.

Land Titles. An Act of 1875 (38 & 39 Vic. c. 87) provided for a registry of landed titles, but as the registration is not compulsory it is a dead letter. (See also "Lands Clauses.")

Landlord and Tenant. Every person who is in occupation of land or premises without the knowledge of the owner or his representative is a trespasser, and can be summarily turned out as soon as discovered; but if, after discovering the occupancy, nothing is done, a tenancy is created. It may be on sufferance or, if specifically assented to, at will. In either case the tenant is entitled to leave without notice, and the landlord entitled to enforce relinquishment of possession at any reasonable time. In practical life such contingencies are too rare to be worth much notice. Almost every tenancy is either weekly, quarterly, or by the year. A clear understanding (whether written or not) for a weekly rent implies that the rent is payable weekly, and that a week's notice to quit will suffice; the same rules apply to a tenancy by the quarter, unless there be some inference creating a tenancy from year to year. Tenancy from year to year may be inferred from a general understanding or by a written agreement. Such a tenancy is for one year at least, and for any number of complete succeeding years, until either the landlord or the tenant gives the other notice to quit, which notice may be either verbal or written, and must be delivered not less than six months before the end of the year, so as to terminate the tenancy on the quarter day corresponding to that upon which it commenced. An agreement for an annual tenancy can only extend to three years, unless it is a formal deed, duly sealed and delivered, which is a lease. In all tenancies, unless there is a special agreement to the contrary, rent is not due or payable until the next day after it is due, unless that should fall on a Sunday, when there is grace till Monday. The right to enforce rent accrues at sunrise, when the landlord is entitled to put in a distress, which is good against all the world until the rent is paid. (See "Distress.")

Agricultural Tenancies. Considerable alterations were made

on this subject by the Agricultural Holdings (England) Act, 1883. It makes original provisions which entitle every agricultural tenant upon quitting his holding to compensation from his landlord for improvements which the tenant has made, subject to exceptions and with the proviso that in estimating the value of an improvement of any kind enumerated in the first schedule, there shall not be taken into account as part of the improvement made by the tenant what is justly due to the inherent capabilities of the soil. The said first schedule is divided into three parts, that is: 1. Improvements to which the consent of the landlord is required, including erection and enlargement of buildings, formation of silos; laying down of permanent pasture; making and planting of osier beds; making of water meadows; works of irrigation, or gardens; making or improving of roads, bridges, watercourses, ponds, wells, reservoirs, or works for the application of water power, or for supply of water for agricultural or domestic purposes; making of fences; planting of hops, orchards, or fruit bushes; reclaiming of waste land; warping of land; embankment of sluices against floods. 2. Drainage, in respect of which notice to the landlord is required. 3. Boning of land with undissolved bones; chalking of land; clay burning; claying of land; liming of land; marling of land; application to land of purchased artificial or other purchased manure; consumption on the holding by cattle, sheep, or pigs, of cake or other feeding stuff, not produced on the holding.

The details of the Act render agreements in bar of compensation void; make distinctions between improvements executed before and after commencement of the Act, and include regulations for compensation; procedure by agreement, reference or umpire appointed by the Land Commissioners; charge of compensation through the County Court; notice to quit extended (in some instances only) to twelve months; fixtures; Crown and Duchy Lands; ecclesiastical and charity lands; resumption of improvements; miscellaneous and general provisions; and new rules as to distress for rent, and limitations thereof, and scale of charges for distress.

Lands Clauses Consolidation Acts are certain statutes for regulating the terms, conditions, and formalities to be complied with by all companies or other persons who are authorized to take lands for railways and other considerable works. The first of these Acts was passed in 1845 (8 & 9 Vic. c. 18); it was amended in 1860 (23 & 24 Vic. c. 106), and in 1869 (32 & 33 Vic. c. 18). They are most important Acts with reference to

the obligations of companies with compulsory powers and the right of individuals who are entitled to compensation for disturbance in such circumstances. The Lands Clauses (Umpire) Act, 1883, provides for the appointment of an umpire in every case where a dispute about compensation arises.

Lapse is generally used to mean the suffering of time to pass by during which the right of doing certain things is extinguished, but it has a more specific meaning with reference to church benefices. If the patron fails to appoint to a vacancy within a stated time, the living is in the gift of the bishop of the diocese, whose omission passes on the right to the archbishop of the province, whose neglect vests the right in the Crown.

Larceny is taking away without the legal right of doing so, with the intention of feloniously appropriating the property. In former times this was subject to several subtle limitations, but modern statutes have extended larceny to every form of appropriation that is manifestly in the nature of acquiring the disposal of other people's property in a dishonest spirit. Simple larceny is when there is no circumstance of aggravation. Compound larceny is when there is special aggravation of the offence, as in a dwelling-house when the amount reaches £5; on ships and wharfs; from the person; by violence; by servants. Every case of larceny must be tried by a jury unless the accused pleads guilty.

Law Merchant is another name for commercial law between two countries.

Law of Nations is international law.

Lay is the designation of a person who is not one of the recognized learned professions. In its limited sense it is one who is not a clergyman.

Lay Impropriators are persons whose ancestors have bought up tithes out of which they continue to derive income, though such a transfer of the revenues of the church is now illegal. (See also "Impropriation.")

Leader is the senior or principal barrister, where several are engaged upon a case in court.

Leading Questions are those which, by obvious intention or innuendo, induce the answers obtained or desired.

Lease, in a loose sense, means the right to any kind of tenancy. In its practical application it means a tenancy for a term exceeding three years, because such a tenancy can only subsist upon a legal basis under a formal deed, duly signed, sealed, and delivered.

Legacy is a gift by will. A general legacy is a share or apportionment out of the general estate. A specific legacy is a particular thing or a stated sum of money. Specific legacies are payable in full before general legacies can be legally paid.

Legacy Duty is the tax payable out of the amount of a personal estate, for which the executors or administrators are responsible, and which they are entitled to deduct from the legacies *pro rata*. The amount of legacy duty is governed by the current Act of Parliament, which is liable to alteration from year to year.

Legal Estate (as distinguished from an equitable estate) is the power of management and disposal for the time being, which may be unqualified when in the hands of the actual owner, or qualified when in the hands of some one on the owner's behalf.

Legal Memory is supposed to extend no further back than the commencement of the reign of Richard I. (1189). The earliest official record of an Act of Parliament is 20 Hen. III. (1236).

Legal Tender is any amount in gold or Bank of England notes. The note of any other bank is not legal tender. Silver is only legal tender to the extent of £2, and copper to one shilling. Tender must be in accordance with the foregoing, and the amount must be put down, or otherwise placed within reach and unqualified control of the person to whom it is tendered, and no condition must be mentioned except that it is tendered in discharge of a stated claim. Refusal of such tender does not bar action, even though the action be for only the same amount or less; but if the refusal be unreasonable, the plaintiff for the recovery of the amount will probably have the costs awarded against him, which is in the discretion of the judge, whether in a county or superior court.

Legatee is a person to whom a legacy is payable.

Legitimacy. An Act was passed in 1858 (21 & 22 Vic. c. 93) empowering the Divorce Court to decree the legitimacy of any person petitioning to that effect, subject to evidence thereof.

Lessee is the tenant under a lease; *lessor* is the person who grants a lease.

Letter of Attorney is a written authority to some person to do some legal act on behalf of the writer. The person instructed need not be a solicitor.

Letter of Credit is a written authority to some person to advance money or goods for which the writer undertakes to become responsible.

Letter of Licence is a written memorandum by creditors, permitting a debtor to carry on his business on terms prescribed.

Letters of Marque are articles of authority to the owner of a private ship to commit depredations upon the enemy's ships in time of war.

Letters Patent. Writings of the Queen, sealed with the Great Seal of England, whereby a person or public company is enabled to do acts or enjoy privileges which he or it could not do or enjoy without such authority.

Levari Facias. A writ of execution which affects a man's goods and the profits of his lands, by commanding the sheriff to levy the judgment debt on the lands and goods of the party to whom it is issued, whereby the sheriff may seize all his goods and receive the rents and profits of his lands, till satisfaction be made. Little use is now made of this writ, the remedy by *elegit*, which takes possession of the lands themselves, being much more effectual.

Libel. All contumelious matter, that tends to degrade a man in the opinion of his neighbours, or to make him ridiculous, will amount (when conveyed in writing, or by picture, effigy, or the like) to libel. The term also legally includes such writings as are of a blasphemous, treasonable, seditious, or immoral kind. A person libelled may sue the author, printer, or publisher for damages; in such case, it is always a defence to show that the alleged libel is true. He may also prosecute them, or either of them, criminally. In such case, by 6 & 7 Vic. c. 96, it is provided that the defendant may, by way of defence, allege the truth of the matters charged, and further, that it was for the public benefit that the matters charged should be published, showing the particular fact or facts by reason whereof it was for the public benefit. And that, if after such plea the defendant shall be convicted, the court may consider whether his guilt is aggravated or mitigated by the plea and the evidence thereon. The Act also contains provisions intended to relieve editors and proprietors of newspapers, &c., from the hardship of being liable in civil actions, without qualification, for all libels, though inserted without their knowledge. In such an action for libel the defendant may plead that it was inserted without actual malice and without gross negligence, and that, before the action or at the earliest opportunity, he inserted full apology, and he may thereupon pay money into court as amends for the injury. In an indictment or information for such a libel, the defendant may prove that the publication was without his authority, and

did not arise from want of due care and caution on his part. Every person convicted of publishing a defamatory libel, knowing it to be false, is liable to imprisonment for a term not exceeding two years, and to be fined, and to the like punishment even where there is not wilful falsehood, but imprisonment in that case not exceeding one year. Publishing or threatening to publish any libel with a view to extort money is made punishable with imprisonment for any term not exceeding three years. Prior to 1792 it was doubtful whether the functions of the jury in a prosecution for a libel extended beyond deciding whether or no the alleged libel had been published by the defendant, and the judges took upon themselves to declare as matter of law whether the publication in question was libellous or not. But by Fox's Libel Act (32 Geo. III. c. 60) it was provided that, upon the trial of indictments or informations for libel, the jury should have a right to pronounce a general verdict of guilty or not guilty upon the whole matter in issue.

Libel in newspapers cannot be prosecuted criminally except under the fiat of the Public Prosecutor.

Libraries, Public. The original Act for authorizing free public libraries to be charged upon the local rates was passed in 1855 (18 & 19 Vic. c. 70). Subsequent Acts on the same subject are 29 & 30, c. 114; 34 & 35, c. 71; 40 & 41, c. 54, secs. 1—3. The principle that runs through these Acts is that of local option, with limitation of annual cost to one penny in the pound.

Licences. Houses where there is public music or dancing require the authority of special licence in London, but not elsewhere. In London as well as throughout the country it is necessary, in order to be at liberty to carry on certain trades and professions, to be first licensed to do so. This system applies most extensively to trades connected with alcoholic liquors.

Every brewer, distiller, rectifier, dealer in methylated spirits, and every dealer in beer, wines, and spirits, who is distinguished from the ordinary retailers, requires a licence. Such licences can be obtained by any one on application to the excise authorities, subject to numerous and very onerous regulations.

Retailers of wine have special freedom in obtaining licences; but

All retailers of beer and spirits, before being entitled to an excise licence, must first get a licence from the licensing magistrates. Retailers of all intoxicating liquors are subject to very special regulations, with regard to hours of business and other matters, elaborately dealt with in the Act of 1880 (43 & 44 Vic. c. 20).

Refreshment Houses are defined as all houses, rooms, shops, or buildings kept open for public refreshment, resort, and entertainment, whether refreshments are sold there or not, and every such place, not licensed to sell excisable liquors, where victuals or refreshments are sold for consumption on the premises. A refreshment house that opens at five or later in the morning, and closes at ten or earlier in the evening, does not require a licence of any kind unless there is intoxicating liquor sold therein; but every such house that is open after ten at night is illegal without a magistrate's licence, subject to heavy penalties.

Game Dealers and Retailers require a magisterial licence as a preliminary to the necessary excise licence.

Theatres in London require the licence of the Lord Chamberlain; in the country the licence of the local magistrates.

Billiard Rooms are permitted in houses that are fully licensed for retailing intoxicating liquors; but all public billiard rooms elsewhere require special magisterial licence.

Tobacco Manufacturers, Dealers, and Retailers, cannot legally carry on business without an excise licence.

Auctioneers have to pay £10 per annum for license to sell by auction.

Appraisers in general require licences, with some exceptions.

House Agents, with reference to furnished houses exceeding the annual value of £25, must be licensed. This does not apply to agents for unfurnished premises.

Playing-card Makers cannot legally sell without complying with special stamp laws.

Hawkers and Pedlars of miscellaneous merchandise must be licensed; but this does not apply to articles made by the hawker, nor to books, periodicals, printed papers, milk, fish, fruit, vegetables, or coals, all of which may be hawked anywhere by any one.

Patent Medicine Dealers must be licensed.

Milk Vendors and Dairymen do not require a licence, but they must register for inspection, subject to penalties for not being registered.

Lie is a word used in law to denote the good grounds of an action. If those grounds are strong, it is said the action will lie; if they are weak, that it will not.

Lien is the right of a person to keep possession of the property of another until a debt is paid. Goods sold immediately become the property of the purchaser, but the seller is entitled to retain them until they are paid for; but he is not

entitled to sue upon them until he has tendered the goods and offered to deliver them on the money being paid. Such is a general lien. A specific lien is when cloth is delivered to a tailor to make into a coat. He is entitled to retain the coat, and also to sue for his charge. Such are the legal theories on the subject, but they are subject to various qualifications in practice, especially in the county courts, where capricious judgments that could not be sustained on appeal are often given, and submitted to rather than incur the expense and loss of time of resistance.

Life Insurance. The power of effectually insuring a life is limited—that is, every life insurance is void unless the insurer in whose interest the insurance is effected has a pecuniary interest in the life insured. Thus, a man cannot legally insure for his own benefit the life of his wife or child, unless some pecuniary advantage would be lost by their respective deaths; but every man is presumed to have an unlimited interest in his own life, and so with every person.

Life Offices. The legal right to insure lives is subject to the following regulation. Every person or body of persons who professes or proposes to effect insurances upon lives must deposit £20,000 in Chancery, subject to the rules of court for the time being.

Conditions. Every life policy is subject to conditions respecting the probable continuance of the life. Any false representation respecting the health of the life to be insured will, if eventually discovered, invalidate the policy. In reference to this point every life office puts a series of questions of a searching character respecting the life, habits, and occupation of the person to be insured, and any material falsity in any one answer may invalidate the policy.

Compulsory Continuance. In the event of a life office accepting one premium in respect of a life insurance, and there being no false statement respecting the health or other conditions of the life, the life office is under obligation to renew the policy annually upon tender of the amount of the premium on or before the last day upon which such renewal premium is expressed to be payable, including days of grace, which are invariably allowed, varying from about fifteen to thirty.

Ligan is where goods are cast into the sea and have sunk, but have been tied to a cork or buoy in order to be found again. These belong to the Crown if no owner appears to claim them; but if any owner appears he is entitled to recover possession.

Lights. See "Windows."

Lighthouses. The erection and superintendence of all lighthouses, buoys, and beacons is vested (for England, Wales, Jersey, Guernsey, Alderney and Sark) in the Trinity House; for Scotland and the adjacent seas and islands, in the Commissioners of Northern Lighthouses; for Ireland and the adjacent seas and islands, in the Port of Dublin Corporation—these three bodies being distinguished from the local authorities by the name of General Lighthouse Authorities.

Limitation of Estate is when the holder of an estate is limited as to its appropriation—as under an entail, or in an estate for life.

Limitations, Statute of. The Act usually known as such is that of 1623, 21 Jac. I. c. 16. Under that and subsequent Acts, actions in respect of personal property cannot be maintained after six years from the date of the right sued upon; assault or false imprisonment four years; slander two years; arrears of rent six years. It is a common error that lapse of time bars the right to commence an action. When brought it is for the defendant to plead the statute subject to correction. An acknowledgment of a debt revives it, and bars the plea of limitation until the lapse of the prescribed time after the acknowledgment. To be effectual, an acknowledgment must be payment of part of the amount on account of the whole, or otherwise unqualified acknowledgment in *writing*. Verbal acknowledgments have no effect, and a written acknowledgment is of no use if qualified or ambiguous. The limitation of time with reference to actions on account of land was twenty years until the end of 1878; but an Act of 1874 (37 & 38 Vic. c. 57), coming into operation on the 1st of January, 1879, limits ordinary actions in respect of land to twelve years after the cause of action has arisen; and should such right be barred by infancy or other unavoidable cause, then the limit of grace is six years after the infancy or other disability has ended. And though for any cause a disability be prolonged and beyond control for a longer period than twenty-four years, no such disability can extend the right of action beyond thirty years after the cause of action has arisen; and absence beyond seas, in any case, makes no difference. This Act seems to have been suggested by the Tichborne case, which was finished in the spring of the year in which the Act was passed.

Limited Liability. The Companies Act, 1862, first gave the power of establishing trading companies with limited liability. (See "Company.")

Limited Owner is a person who is in legal possession of a limited estate. An Act for the relief of limited owners was passed in 1870 (33 & 34 Vic. c. 56), and another in 1871 (34 & 35 Vic. c. 84). The object of these Acts is to enable the life tenant to effect improvements of a permanent character, and to borrow upon the security of the estate of the successor for the purpose of such improvements.

Liquidated Damages is the amount precisely ascertained, due or awarded to a person in consideration for an injury. The expression means the amount settled as distinguished from the amount claimed.

Liquidator is the statutory designation of the person charged with the official winding-up of a company.

Literary and Scientific Institution Act, passed in 1854 (17 & 18 Vic. c. 112), makes some special concessions to such institutions contrary to the law of Mortmain that otherwise prevails.

Littleton was a judge in the time of Edward IV., whose original writings upon law were subsequently made the basis of Coke's commentaries.

Livery of Seizin. The ancient method of conferring a feud.

Living. See "Benefice."

Lloyd's Bonds are so called because first brought into prominence by a person of that name. They are bonds given by a company for money lent to such company after it has already borrowed as much as is legally permissible. In the abstract such bonds are void as being in contravention of the law, and, as such, the original holder cannot recover, but a subsequent holder for value can, as being an "innocent" party to the fraud effected by the company and the first holder, to which the subsequent holder is not a party.

Load Line is the mark below which it is illegal for a ship to be sunk in sea-water at rest. Such a load line is compulsory, and its position is governed by the Merchant Shipping Act of 1875, popularly known as "Plimsoll's Act" (38 & 39 Vic. c. 88).

Local Act is an Act of Parliament relating to a particular locality.

Local Government Acts, as distinguished from municipal corporation Acts, are 21 & 22 Vic. c. 98; 24 & 25 Vic. c. 61; and 26 and 27 Vic. c. 17. (See also "Public Health Acts.")

Local Government Board. This department of the government is a development of the former similar body first known as the Poor Law Commissioners, and afterwards as the

Poor Law Board, which was merged into the Local Government Board in 1871 (34 & 35 Vic. c. 70) with a Cabinet Minister for its president. The function of the Local Government Board is to enforce upon local authorities of all ranks the fulfilment of their duties, and otherwise to control and limit local powers, especially with reference to loans.

Locke King's Acts. The first of these was passed in 1854 (17 & 18 Vic. c. 113), and another in 1869 (30 & 31 Vic. c. 69); the object of both being to fix upon land left by a deceased person the full burden of mortgages thereon.

Locum Tenens is a person deputed to temporarily fill and act in the discharge of the office of another.

Locus in quo is the place where something in question has occurred.

Locus Penitentiae is repentance with reference to a bargain virtually agreed upon but not legally confirmed.

Locus Standi is popularly understood to mean that a man has got something that serves for a post-office address, but in law it means the right to appear and be heard.

Lodger Franchise. The lodger franchise was first introduced by the Reform Act of 1867 (30 & 31 Vic. c. 102), sec. 4 of which provides that "Every man shall . . . be entitled to be registered as a voter, and when registered to vote for a member or members to serve in parliament, who is qualified as follows: that is to say, (1) is of full age and not subject to any legal incapacity; and (2) as a lodger has occupied in the same borough separately and as sole tenant for the twelve months preceding the last day of July in any year the same lodgings, such lodgings being part of one and the same dwelling-house, and of a clear yearly value, if let unfurnished, of ten pounds or upwards; and (3) has resided in such lodgings during the twelve months immediately preceding the last day of July, and has claimed to be registered as a voter at the next ensuing registration of voters.

Lodgers' Goods Protection Act, 1871. Before the passing of this Act lodgers were subjected to great loss and injustice by the exercise of the power possessed by the superior landlord to levy a distress on their furniture and goods for arrears of rent owing to such superior landlord by his immediate lessee or tenant. This Act accordingly provided (sec. 1) that if any superior landlord shall levy or authorize to be levied a distress on any furniture, goods or chattels of any lodger for arrears of rent due to such superior landlord by his

immediate tenant, such lodger may serve such superior landlord, or the bailiff or other person employed by him to levy such distress, with a declaration in writing made by such lodger, setting forth that such immediate tenant has no right of property or beneficial interest in the furniture, goods or chattels so distrained or threatened to be distrained upon, and that such furniture &c., are the property or in the lawful possession of such lodger; and also setting forth whether any and what rent is due and for what period from such lodger to his immediate landlord; and such lodger may pay to the superior landlord, or to the bailiff or other person employed by him as aforesaid, the rent, if any, so due as last aforesaid, or so much thereof as shall be sufficient to discharge the claim of such superior landlord. And to such declaration shall be annexed a correct inventory, subscribed by the lodger, of the furniture, goods and chattels referred to in the declaration; and if any lodger shall make or subscribe such declaration and inventory, knowing the same or either of them to be untrue in any material particular, he shall be deemed guilty of a misdemeanour. If any superior landlord (sec. 2), or any bailiff or other person employed by him, shall, after being served with the before-mentioned declaration and inventory, and after the lodger shall have paid or tendered to such superior landlord, bailiff or other person, the rent, if any, which by the last preceding section such lodger is authorized to pay, levy or proceed with the distress on the furniture, goods or chattels of the lodger, such superior landlord, bailiff, or other person, shall be deemed guilty of an illegal distress, and the lodger may apply to a justice of the peace for an order for the restoration to him of such goods; and such application shall be heard before a stipendiary magistrate, or before two justices in places where there is no stipendiary magistrate, and such magistrate or justices shall inquire into the truth of such declaration and inventory, and shall make such order for the recovery of the goods or otherwise as to him or them may seem just; and the superior landlord shall also be liable to an action at law at the suit of the lodger, in which action the truth of the declaration and inventory may likewise be inquired into. By sec. 3 any payment made by a lodger pursuant to the first section of this Act shall be deemed a valid payment on account of any rent due from him to his immediate landlord.

Lodging-Houses. Numerous Acts for the restriction and supervision of common lodging-houses and houses let for lodgings have been passed of late years. In 1851 (14 & 15 Vic. cc.

28, 84), 1853 (16 & 17 Vic. c. 41); 1855 (18 & 19 Vic. c. 121, sec. 43, and c. 132); 1866 (29 & 30 Vic. c. 90, sec. 41); 1868 (31 & 32 Vic. c. 130); 1874 (37 & 38 Vic. c. 89, secs. 46, 49).

Private Lodgings. Penalties are imposed for letting lodgings where a person has been ill with infectious disorder without disinfecting, or making false representation as to infectious disease. Acts passed in 1866 (29 & 30 Vic. c. 90, sec. 36); 1874 (37 & 38 Vic. c. 82, sec. 56); 1875 (38 & 39 Vic. c. 55, secs. 128, 129).

Seamen's Lodging-Houses are regulated by an Act of 1880 (43 & 44 Vic. c. 16, sec. 9) and by the Sea Fisheries Act, 1883.

Overcrowding of Houses is provided against by Acts passed for the Metropolis in 1855 (18 & 19 Vic. c. 121, sec. 29); 1862 (25 & 26 Vic. c. 102, sec. 67); 1866 (29 & 30 Vic. c. 90, secs. 19, 36); 1878 (41 & 42 Vic. c. 16, sec. 101); in the provinces, 1875 (38 & 39 Vic. c. 55, secs. 91, 109), and 1878 (41 & 42 Vic. c. 16, sec. 101).

London Charities. The City of London Parochial Charities Act, 1883, confers upon the Charity Commissioners of England and Wales new powers, and imposes upon them new obligations with reference to London charities, and places the trustees of such charities under obligation to the Charity Commissioners, who are to inquire into charity property and classify same into two schedules, one of ecclesiastical and the other of general property, and the results of inquiries are to be published. The Act also makes special provision for schemes for better application of the charity funds and for the creation of new bodies of trustees, the educational interest of girls being made exceptionally prominent. There are also provisions for creating a new governing body called "The Trustees of the London Parochial Charities," which body is charged with remarkable powers and obligations of investigation, supervision, and reform wherever it may appear needful.

London and Middlesex Sittings. These are sittings *in nisi prius* for the disposal of civil actions in either London or Middlesex.

Long Vacation. A period set apart from August 10th to October 24th in each year, during which all legal proceedings were formerly suspended, but this is now much qualified.

Lord Campbell's Acts. The Acts so called, because initiated by or at the instance of Lord Chancellor Campbell, were passed in 1843 (6 & 7 Vic. c. 96), to amend the law relating to defamation and libel; 1846 (9 & 10 Vic. c. 93), to enable the

legal representatives of persons killed by negligence to recover damages for the benefit of dependent survivors; 1857 (20 & 21 Vic. c. 88), to authorize warrants for the seizure of obscene publications, manuscripts, or representations in any place where kept and offered for sale.

Lord Cranworth's Act of 1860 (23 & 24 Vic. c. 145) makes special provision with reference to the interpretation of mortgage deeds.

Lord Denman's Act of 1843 (6 & 7 Vic. c. 85) renders the evidence of interested parties admissible in actions where it was formerly not so.

Lord Ellenborough's Act of 1803 (43 Geo. III. c. 58) imposed punishment with death for assaults upon the person. It was totally repealed by an Act in 1828 (9 Geo. IV. c. 31) and 1829 (10 Geo. IV. c. 34).

Lord Langdale's Act of 1837 (7 Will. IV. and 1 Vic. c. 26) is the basis of the present law of wills.

Lord Lyndhurst's Acts were passed in 1835 (5 & 6 Will. IV. c. 54) for rendering void any marriage between prohibited persons; 1844 (7 & 8 Vic. c. 45), to give power to congregations of Dissenters of twenty years' standing to define the religious observances to be observed where there is no express authority by deed.

Lord Lieutenant of a County. An officer of great distinction appointed by the Crown for the management of the standing militia of the county and all military matters therein.

Lord Mayor's Court of London. An inferior court of limited jurisdiction, in which the recorder, or, in his absence, the common-serjeant, of the city of London, presides as judge. The court has jurisdiction only where the cause of action arose within the city. An appeal lies to any of the superior courts of common law at Westminster, and thence to the Exchequer Chamber. The practice and procedure of the court were amended and its powers enlarged by statute 20 & 21 Vic. c. 157.

Lord Privy Seal is a member of the Cabinet whose office it is to pass all charters and other Crown documents before sealing with the Great Seal.

Lord St. Leonard's Acts of 1859 (22 & 23 Vic. c. 85) and 1860 (23 & 24 Vic. c. 38) refer to the disposal of property by trustees, for whose relief in certain technical contingencies the Acts were mainly passed.

Lord Tenterden's Act of 1828 (9 Geo. IV. c. 14), for extending the application of the Statute of Frauds, &c.

Lord Warden of the Cinque Ports. The official custodian of the Cinque Ports on behalf of the Crown.

Lords Commissioners are persons holding high commissions under the Crown, for carrying on the business of the State. The most important are the Lords Commissioners of the Treasury and of the Admiralty,

Lords, House of. As a court of justice, the House of Lords is the supreme court of judicature in the kingdom, having at present no original jurisdiction over causes, but only in case of appeal or proceedings in error, to rectify any injustice or mistake of the law committed by the courts below.

Lords Spiritual are the archbishops and bishops who are entitled to sit in the House of Lords.

Lords Temporal are the hereditary peers of Great Britain and the representative peers of Scotland and Ireland, all of whom are entitled to sit in the House of Lords, and are disqualified for seats in the House of Commons.

Lot. See "Scot and Lot."

Lucri causa. Done for gain.

Lunatics. A lunatic is one who has had understanding but by disease, grief, or other accident, has lost the use of his reason. The sovereign is, by her prerogative, the guardian of lunatics. The Lord Chancellor, to whom, by special authority from the sovereign, the custody of lunatics and idiots is intrusted, upon petition or information grants a commission, special or general, in the nature of a writ "*de lunatico inquirendo*" directed to the "Masters in Lunacy," to inquire into the party's state of mind; and if he be found *non compos*, he usually commits the care of his person, with a suitable allowance for his maintenance, to some friend, who is then called his committee. The next of kin is generally made the committee of the lunatic's person, and the heir is generally made the manager or committee of his estate, accountable, however, to the Court of Chancery, and to the *non compos* himself, if he recovers; or otherwise to his administrators. As to criminal lunatics, they are defined by sec. 2 of The Criminal Lunatics Act, 1867, to be (1) persons for whose safe custody during her pleasure Her Majesty is authorized to give order; (2) any person whom one of Her Majesty's principal Secretaries of State is authorized by law to direct to be removed to a lunatic asylum under any Act of Parliament; (3) any person sentenced or ordered to be kept in penal servitude who may be shown to the satisfaction of the Secretary of State to be unfit from imbecility of mind for penal

discipline. Her Majesty has power (under 23 & 24 Vic. c. 75, sec. 1) to appoint an asylum for criminal lunatics, and the Secretary of State may direct criminal lunatics to be confined in the asylum. After the expiration of the sentence to which a criminal lunatic may be sentenced, he may be removed to a county lunatic asylum. Power is given by the Act of 1867 to a Secretary of State to order a criminal lunatic to be discharged conditionally or unconditionally.

The statutory provisions now in force with regard to lunacy are derived from the Lunacy Regulation Acts, 1853 and 1862 (16 & 17 Vic. c. 70, and 25 & 26 Vic. c. 86), of which there was a short amendment passed in 1882 (45 & 46 Vic. c. 82).

Lunatic Asylums. Some lunatic asylums are established by law for the public benefit under the denomination of County Lunatic Asylums; others—such as hospitals—being instituted for the public benefit, by the endowment of charitable donors; and others being private houses kept by individuals for their own profit.

County lunatic asylums are of modern origin, having been first established by 48 Geo. III. c. 96; but the regulations now in force are those contained in 16 & 17 Vic. c. 97 (called "The Lunatic Asylums Act, 1853"), amended by 18 & 19 Vic. c. 105; 19 & 20 Vic. c. 87; and 25 & 26 Vic. c. 111. By the provisions of these Acts it is incumbent on the justices of every county (not being already provided therewith) to take measures to provide a sufficient asylum for its pauper lunatics, either separately or in union with such other parties as in the Acts mentioned in that behalf. And the expenses of such institutions are to be defrayed by county rates; and the management is vested in a committee of visitors, to be elected yearly by the justices, or (in case of union with an asylum supported by voluntary contributions) partly by the justices and partly by the subscribers. The purpose for which they are mainly designed is to receive the insane paupers of the county—a class of persons of whom it may be said in general that they have no other resource; particularly since the provision of the Poor Law Amendment Act (4 & 5 Will. IV. c. 76), sec. 45, by which it is made penal to confine insane persons, who are dangerous, for more than fourteen days in any workhouse. The provisions for the reception of this class are mainly as follows: Every relieving officer of any parish within a union, or under a board of guardians, and every overseer of a parish where there is no relieving officer, who shall have knowledge that any pauper

resident in such parish is, or is deemed to be, a lunatic, is to give notice thereof to some justice of the county, who shall thereupon make an order for the pauper to be brought before him or some other justice of the county; and the justice before whom such pauper shall be brought shall call to his assistance some physician, surgeon, or apothecary; and if, upon examination of the pauper, such medical man signs a certificate in a fixed form, to the effect that such pauper is a lunatic and a proper person to be taken care of, the justice, if satisfied that such is the fact, shall make an order in a fixed form, directing the pauper to be received into the asylum of the county; or, under special circumstances, into any other asylum, or into any registered hospital or licensed house. And it is further provided, that it shall be lawful for any justice, upon his own knowledge, and without any notice having been given to him, to examine any pauper deemed to be a lunatic, at his own abode or elsewhere; and to proceed in all respects as if the pauper had been brought before him in pursuance of an order for that purpose. And also, in case any pauper deemed to be a lunatic cannot, on account of his health or other cause, be conveniently taken before a justice, he may be examined at his own abode or elsewhere, by an officiating clergyman of the parish, together with the relieving officer or overseer, who shall proceed thereupon in the same manner as before directed in the case of the justice. To this county lunatic asylum may also be sent lunatics who, upon examination by two justices (assisted by a medical man), are found to be meditating crime. Also prisoners for debt who, upon examination by a justice and two medical men, are found to be of unsound mind. Where there is sufficient room in the asylum, lunatics who are not paupers may under certain circumstances be sent thither. In every case of a pauper lunatic, he shall be chargeable to the union by which he is sent, or to any other union to which he can be shown to belong, or, if his place of settlement cannot be ascertained, then to the county at large in which he is found. (As to lunatic asylums in London, see "Metropolitan Poor.")

As to the regulation, care, and custody of lunatics in general, they may be summarily stated as follows: By 8 & 9 Vic. c. 100—amended by 16 & 17 Vic. c. 96; 18 & 19 Vic. c. 105; and 25 & 26 Vic. c. 111, it is made unlawful for any person to receive two or more lunatics into any house, unless such house be an asylum or a hospital duly registered, or a house for the time being duly licensed under some Act of Parliament. And

in general no person can be legally received in such a hospital or in a licensed house without a written order from the person sending him, and medical certificates of two physicians, surgeons, or apothecaries, in such form as prescribed by the Acts. But in the case of a pauper lunatic, the order is to be under the hand of a justice of the peace, or the officiating clergyman and one of the overseers, or the relieving officer of the parish to which he belongs ; and the medical certificate is to be signed by one physician, surgeon, or apothecary. The licences in question are to be granted (for any period not exceeding thirteen calendar months) in Middlesex, London, Westminster, Southwark, and all places within the range of seven miles from any part of London, Westminster, or Southwark, by a board of persons composed partly of medical men and of barristers—which was established under 8 & 9 Vic. c. 100, sec. 3, under the name of "Commissioners in Lunacy"—at a quarterly or special meeting of the board ; and in other places are to be granted by the justices of the county, in general or quarter sessions. Many provisions are made for the effectual superintendence of all registered hospitals and licensed houses, among which are comprised enactments that the keepers of such houses shall constantly report the admission, death, removal, discharge, or escape of patients ; that the houses shall be provided with proper medical attendance ; that they shall be frequently visited and inspected by the commissioners, and (in the case of houses in the country) by visitors appointed by the magistrates at quarter sessions ; that these visits shall be at uncertain and unexpected intervals, and in certain cases even by night ; and that report shall be made by the visitors to the commissioners, and by the commissioners to the Lord Chancellor, in March in every year, of the state of the houses visited by them and as to the care taken of the patients therein. Moreover, any person detained in a licensed house or hospital without sufficient cause established to the satisfaction of the commissioners, may be set at liberty by them. But the power to order a discharge does not extend to the case of a person found lunatic under a commission, or confined by an order of the Secretary of State for the Home Department, or under the order of any court of criminal jurisdiction. In addition to the visitations thus required in regard to registered hospitals and licensed houses, the commissioners moreover are directed to visit all asylums and gaols and work-houses where any lunatics may be confined, and report as to their condition, system, and regulations. Authority is also given

by these Acts to the Lord Chancellor in the case of any lunatic under the care of a committee, and to the Lord Chancellor or Secretary of State for the Home Department in the case of any lunatic or person under any restraint as a lunatic, to direct any commissioner or other person to visit the supposed lunatic, and make report upon the matters into which he shall be directed by such order to inquire.

The Trial of Lunatics Act, 1883, makes new provisions for the trial and custody of insane persons charged with offences.

Lynch Law is the punishment or execution of any person by a combination of persons who have no specific authority for their judicial acts or deeds.

Lyon King-at-Arms. The principal herald of Scotland.

Macnaghten's Case is often cited with reference to the matters concerning, in which it is regarded as a leading precedent. Daniel Macnaghten shot Mr. Drummond (private secretary to the then Sir Robert Peel, when premier), and the plea for the defence was the insanity of the prisoner. The judge seemed desirous of setting that plea at naught, but the jury accepted it and returned a verdict of not guilty. A discussion on the subject which arose in the House of Lords led to the expression of authoritative opinions by the judges that the verdict of the jury was right.

Magistrates is the universal designation popularly applied to "justices of the peace," and includes all persons entitled to hear and decide upon original accusations of a criminal character. Their power of punishment is strictly limited by law, but their power to palliate offences, mitigate punishment, or to discharge persons who have palpably committed undeniable offences against the law is almost unlimited, and is often exercised with the grossest partiality and favour. In the City of London the Lord Mayor and aldermen are the magistrates. The mayor of a corporate town is its chief magistrate where there is not a stipendiary. Supplementary borough justices are appointed by the Lord Chancellor. Outside corporate towns the county magistrates have sole jurisdiction, and are appointed by the Lord Chancellor with the assistance of local men of influence.

Stipendiary Magistrates are those who are officially charged by the Lord Chancellor with the office at a salary or stipend, for which they are under obligation to act. All other magistrates are strictly honorary, without salary or emoluments, and with liberty to act or to refrain from doing so.

Magna Charta. This celebrated charter, extorted by the

barons from King John in 1215, aimed rather at correcting the abuses which had grown out of the feudal customs, and at declaring in plain and unambiguous terms what was the law of the land, than at introducing any new principles into the national jurisprudence. Its principles are embodied in the general law of the country.

Maiden Assize was formerly understood to mean where no one was sentenced to death, but the designation is now applied only where there is no case to try.

Mainprise is a form of writ requiring the sheriff to release a prisoner on bail.

Maintenance is authoritatively defined to be an officious intermeddling in a suit that in no way belongs to one, by maintaining or assisting either party, with money or otherwise, to prosecute or defend it. This is sometimes a serious offence subject to heavy penalties, and may involve indictment for conspiracy.

Malfeasance is the commission of an unlawful act as distinguished from omitting to comply with a legal obligation, which is nonfeasance; and from the wrongful exercise of an ostensibly lawful right, which is misfeasance.

Malice is a malignant desire to inflict death or injury. It is generally essential to prove it in cases of murder and libel.

Malicious Prosecution is bringing a criminal prosecution to bear upon a person against whom there is no ground for criminal proceeding; but it is sometimes sought to stretch this to cases of criminal proceedings arising out of misunderstanding but where malice is alleged.

Manciple was formerly the designation of a steward of the Temple.

Mandamus. The prerogative writ of *mandamus* is a command issuing in the name of the sovereign from the Court of Queen's Bench, and directed to any person, corporation, or inferior court of judicature within the Queen's dominions, requiring them to do some particular thing therein specified which appertains to their office and duty; and which the Court of Queen's Bench has previously determined, or at least supposes, to be consonant to right and justice. It is a high prerogative writ, and issues in all cases where the party has a right to have anything done.

Manor. The grant of a manor originally inured only for the life of the grantee; it was, however, not very long before a manor came to be regarded as the hereditary estate of the

grantee. Moreover, it soon became the practice for a tenant to aliene the whole or part of his land. A tenant who possessed freehold lands of inheritance could convert his property into a manor, with manorial rights and immunities, by granting or selling a portion of it to two or three individuals to hold to them and their heirs under military service. This system gained the name of subinfeudation, and by this process the tenant of a freehold estate became, as between himself and his grantees, a lord; though, as between himself and his lord, he remained a vassal. The superior lord, however, lost that security for the due performance of the feudal services which he had hitherto enjoyed from the possession by his vassal of the lands for which the services were due. The practice was at length put an end to by the statute 18 Ed. I. c. 1 (known as the statute *Quia emptores*), by which the creation of new manors was prohibited, and it was enacted that in all sales or grants of land for the future the new grantee should hold the land, not of the person from whom he received or purchased it, but of the chief lord of the fee. Hence it is that at the present day no claim of manorial rights is admitted, unless they have existed as such from a period anterior to A.D. 1290, the date of the statute. "A manor commenced," says Lord Coke, "when the king granted lands with jurisdiction to another, who, before the statute *Quia emptores*, then granted parcels of them to others, to hold of him by certain services." This jurisdiction was exercised by the lord in certain manorial courts—the court-baron, the court-leet, and the customary court. Of these the court-baron is the most ancient. The customary court, as it concerned copyholders only, was of much later origin. Every manor necessarily had a court-baron; but only certain manors, granted to the great men of the realm, conferred the privilege of holding a court-leet.

Manslaughter is killing without malice, but resulting from culpable conduct; as distinguished from murder on the one hand, and justifiable homicide at the other extreme.

Manumission is the discharge of a person from slavery. It formerly applied to the villeins of this country, but has latterly referred almost exclusively to negro slaves.

Marine Insurance is effected by what is called underwriting. A description of the ship or cargo to be insured having been written with an undertaking to be answerable in the event of loss by misadventure at sea, one person signs, or two or more persons sign, adding a memorandum of the amount they respectively undertake to provide for the benefit of the insured.

Marine Mutiny Act. An Act so intituled is passed every year, subject to any amount of addition, alteration, or omission, as compared with preceding Acts.

Maritime Courts. The Court of Admiralty and its court of appeal, the Judicial Committee of the Privy Council.

Markets. The sovereign of this country is, by her royal prerogative, the arbiter of commerce. Thus, the establishment of public marts or places of buying and selling—such as markets and fairs, with the tolls thereunto belonging—belongs to the Crown. These can accordingly only be set up by virtue of the royal grant, or by long and immemorial usage and prescription, which presupposes such a grant. The limitations of these places of public resort, to such time and such place as may be most convenient to the neighbourhood, are under the order and disposition of the Crown.

Market Overt means open market, but it is otherwise defined as during some authorized market or fair, or in any London shop open to all comers. Purchase in market overt generally gives the purchaser his right of property whether the seller was entitled to sell or not. This extends to stolen goods, but there are some exceptions to the rule.

Marque. See "Letters of Marque."

Marquis. The degree of nobility next below that of duke.

Marriage. As a general rule all persons are able to enter into marriage, unless they labour under some particular disabilities or incapacities. These disabilities are of two sorts, canonical, or municipal and civil. Canonical disabilities make the marriage only voidable by a judicial sentence, not *ipso facto* void; of which nature is an inability at the time of the marriage to procreate children. Of this nature also was the disability once recognized of a pre-contract to another person; but this is no longer the law. It may further be observed with regard to canonical disability that it will not avail to avoid the marriage unless both an actual sentence to that effect be given, and it be given during the life of the parties. As to civil disabilities, it may be laid down generally, and subject only to exception in the case of disability for want of age, that they make the contract *void ab initio*, and not merely voidable; not that they dissolve any contract already formed, but they render the parties incapable of forming any contract at all. The first of these legal disabilities is a prior marriage and having another husband or wife still living. 2. The next disability is want of age. The age fixed by law for consent to matrimony is fourteen in males

and twelve in females. If the male is under fourteen or the female under twelve, the marriage (supposing it to be celebrated with due solemnities) is, though not absolutely void, inchoate only and imperfect; and either of them on coming to the age of consent as aforesaid may disagree and declare the marriage void. But if, at the age of consent, they agree to continue together, they need not be married again. A mere promise to marry is not binding, unless the party against whom it is sought to enforce the promise is of the full age of contract, viz., twenty-one. 3. A third incapacity is want of reason. 4. A fourth incapacity arises from proximity of relationship, as to which see "Everybody's Lawyer," published by Ward, Lock & Co.

Parties labouring under none of these disabilities may proceed to contract themselves to each other with due form and ceremony. The formalities proper to the celebration of marriage have been imposed by the legislature. The principal Marriage Acts now in form are 4 Geo. IV. c. 76 and 6 & 7 Will. IV. c. 85. The statute of 4 Geo. IV. prescribes (in conformity to the canon law) the previous publications of banns upon three successive Sundays, in manner therein mentioned, in the church or chapel where the marriage is to be solemnized; or, in lieu thereof, a licence from the ecclesiastical authority to marry without banns—that is, a special licence from the Archbishop of Canterbury, or a common licence from the ordinary of the place or his surrogate. And no licence is to be granted to marry in any church or chapel, unless one of the parties has had his or her usual place of abode in the parish to which it belongs for fifteen days immediately preceding. And all ministers are forbidden to proceed to solemnize marriage more than three months after the complete publication of the banns or grant of the licence. The Act also provides that the marriage (either by banns or licence) shall be in a public church or chapel within which banns may be lawfully published, and shall take place between eight and twelve in the forenoon (except in the case of special licence) and shall be solemnized by a person in holy orders, and before not less than two credible witnesses besides. In the case of a person under the age of twenty-one (unless a widower or widow) the publication of banns is void, if at the time of such publication the parent or guardian openly signifies his dissent; nor can a licence to marry be obtained in any such case unless the consent of the parent or guardian be given. Under this Act, marriages must be solemnized by a minister in holy orders, except in the case of Jews and Quakers; but the Marriage Act of 6 & 7 Will. IV. c.

85 has introduced regulations in this respect for the relief of Dissenters, and also enables Churchmen as well as others to resort, if they think fit, to a new form of preliminary proceeding, in lieu of either banns or licence, viz., by obtaining the superintendent registrar's certificate with or without licence. The Act also provides that the marriage may be solemnized in a registered building, that is, any building certified according to law as a place of religious worship and registered as a place for the solemnization of marriage. But it is provided that every such marriage shall be solemnized before the registrar of the district and two or more credible witnesses; and also that it shall be solemnized with open doors, between the hours of eight and twelve in the forenoon. By another method of solemnization the parties are permitted to contract marriage at the office of the superintendent registrar, and the ceremony is then to take place in his presence, and in that of some registrar of the district and also of two other witnesses; and is to be with open doors, and between the hours of eight and twelve in the forenoon; and the parties are to make the same declaration and use the same words as in the case of a certified and registered place of worship, viz., I do "solemnly declare that I know not of any lawful impediment why I, A. B., may not be joined in matrimony with C. D.;" and lastly that each party shall say to each other, "I call upon these persons here present to witness that I, A. B., do take thee, C. D., to be my wedded wife (or husband)." In such case, no religious service is to be used. All marriages are to be registered. None of these Acts extend to the marriages of the royal family or to marriages contracted abroad. As regards the latter, all marriages are held by our law to be valid if celebrated according to the laws of the country where the marriage takes place, provided that such law be not repugnant to the first principles of marriage here. Provision is made by 4 Geo. IV. c. 91 for the solemnization of marriages in the chapel of a British ambassador, or British factory abroad, or in the house of any British subject residing at such factory; or by a chaplain within the lines of a British army abroad; and by 12 & 13 Vic. c. 68 provision is made for the celebration of marriages at British consulates abroad. In 1772, owing to the marriage of the Duke of Cumberland with Mrs. Horton, a widow lady, daughter of Lord Ingham, and that of the Duke of Gloucester with the Countess-Dowager of Waldegrave, the king (George III.) sent a message to parliament, recommending both Houses to take the subject of royal marriages into con-

sideration. In consequence of this, a bill was brought in and passed, by which all the descendants of George II.—excepting the issue of princesses who had married, or who thereafter might marry, into foreign families—are forbidden to marry without the consent of His Majesty, his heirs and successors.

An Act was passed in 1879 (42 & 43 Vic. c. 29) to remove doubts as to the validity of certain marriages of British subjects on board Her Majesty's ships.

Married Women. See "Husband and Wife."

Marshalling is the arrangement of accounts so as to show who is entitled to priority of payment in certain contingencies.

Martial Law is, properly speaking, the law administered by courts-martial, and that is founded on the Articles of War, which again is founded on the Annual Mutiny Act. This law has reference solely to the army, the militia, and the marines. In time of war, it is under certain circumstances allowable to put a particular district under martial law; and when that is done, any person within the district may be tried and dealt with in summary fashion by a court-martial. The martial law that is then administered is, as Sir Matthew Hale observes, in truth and reality no law at all, but something indulged rather than allowed as a law. Therefore it ought not to be permitted in the time of peace, when the king's courts are open for all persons to receive justice according to the laws of the land. It is therefore laid down, that if any person having commission of martial law doth in time of peace hang or otherwise execute any man by colour of martial law, this is murder; for it is clearly against Magna Charta, which enacts that no man shall be forejudged of life or limb but by the judgment of his peers and by the law of the land. One clause in the Petition of Right, moreover, is specially directed against the issuing of commissions to proceed within this land according to martial law.

Martinmas is the 11th of November, which still governs some minor customs having legal force as such.

Master and Servant. The first sort of servants acknowledged by the law of England are *menial servants*; so called from their being *intra mentia* or domestics. The contract between them and their masters arises upon the hiring. In cases of other than menial servants, if the hiring be general without any particular time limited, the law construes it to be a hiring for a year, upon a principle of natural equity that the servant shall serve, and the master maintain him, throughout all the revolutions of the respective seasons; as when there is work to be done, as when

there is not; but the contract may be made for any longer or smaller term. In the case of menial or domestic servants, the law presumes, in the absence of any special contract, that the parties agreed to continue the relationship of master and servant until determined by a month's notice, or its equivalent, a month's wages. A servant may be dismissed without notice for a reasonable cause, such as moral misconduct, wilful disobedience to a lawful order, or neglect of duty; and in such cases the servant is not entitled to any wages from the day he is discharged, except those then due. But if wrongfully discharged, he is entitled to wages up to the end of the current period of his service. If, on the other hand, a servant who is to be paid quarterly, or yearly, or at any other fixed time, improperly leaves his service, or is guilty of such misconduct as to justify his discharge during the currency of any such period, he is not entitled to wages for any part thereof, even to the day he quits. 2. Another species of servants are called *apprentices* (see that title). 3. A third species of servants are *labourers*, who are only hired by the day or week, and do not live in the master's house as part of his family. 4. A fourth class are merchant seamen (see title "Merchant Seamen"). 5. A fifth includes stewards, factors, bailiffs and the like. These, however, stand rather in the position of agents than of servants.

The law as to the relation between master and servant has been dealt with in a special enactment—"The Master and Servant Act, 1867" (30 & 31 Vic. c. 141). The Act applies to servants, workmen, artificers, labourers, apprentices, and other persons and their employers; but only to certain servants, &c., referred to in the first schedule of the Act. These servants may perhaps in popular language be described as labourers and artisans, as distinguished from clerks and the higher grades of servants. That being the limited scope of the Act, section 4 provides that "wherever the employer or employed shall neglect or refuse to fulfil any contract of service, or the employed shall neglect or refuse to enter or commence his service according to the contract, or shall absent himself from the service, or wherever any question, difference, or dispute shall arise as to the rights or liabilities of either of the parties, or touching any misuse, misdemeanour, misconduct, ill-treatment, or injury to the person or property of either of the parties under any contract of service, the party feeling aggrieved may lay an information or complaint in writing before a justice, magistrate, or sheriff (the latter provision applying only to Scotland), setting

forth the grounds of complaint, and the amount of compensation, damage, or other remedy claimed for the breach or non-performance of such contract, or for any misuse, misdemeanour, misconduct, ill-treatment, or injury to the person or property of the party so complaining." Thereupon the magistrate, justice, or sheriff is to summon the party complained against before him, and if he does not appear a warrant may be issued for his apprehension. The magistrate, &c., after due examination, and upon proof and establishment of the matter of the information or complaint, have power, as the justice of the case in their judgment requires, either to dismiss the complaint, or to make an abatement of the whole or any part of any wages then already due to the employed, or shall direct the fulfilment of the contract of service, with a direction to the party complained against to find good security for the fulfilment of such contract; or shall annul the contract, or shall impose a fine on the party complained against not exceeding £20, or shall assess and determine the amount of compensation to be paid and direct the same to be paid accordingly; and may, if the party complained against fail to produce security as aforesaid, commit him to prison till he find such security, so that such imprisonment does not exceed three months. Section 14 provides that where on such hearing it appears that any injury inflicted on the person or property of the party complaining has been of an aggravated character, and that such injury, misconduct, &c., has not arisen or been committed in the *bonâ fide* exercise of a legal right existing, or *bonâ fide* and reasonably supposed to exist, and further that pecuniary compensation will not meet the circumstances of the case, the justices, &c., may commit the party complained against to the common gaol or house of correction for any term not exceeding three months. An appeal lies (sec. 15) to the next quarter sessions. Nothing in the Act is to prevent proceedings by civil action or suit. (As to payment of wages by any other medium than money, see title "Truck Acts;" as to unlawful combinations of workmen against employers or threats, &c., used towards them, see "Trades Unions.")

Matrimonial Causes are cases before the Divorce Court.

Maturity is the state of a bill or promissory note when it is payable.

Mayor. The annual chief magistrate of a corporation, who in London, York, and Dublin is styled the Lord Mayor. Mayors of corporations are justices of the peace *pro tempore*. Their powers and duties depend generally on the provisions of charters, corporate usages, or express enactments of parliament.

Mayor's Court. See "Lord Mayor's Court."

Measures. See "Weights and Measures."

Medals (Counterfeit). An Act was passed in 1883 (46 & 47 Vic. c. 45) for preventing the sale of medals resembling current coin; by which Act it is provided that if any person without due authority or excuse (the proof whereof shall lie on the person accused) makes or has in his possession for sale, or offers for sale, or sells, any medal, cast, coin, or other like thing made wholly or partially of metal or any metallic combination, and resembling in size, figure, and colour any of the Queen's current gold or silver coin, or having thereon a device resembling any device on any of the Queen's current gold or silver coin, or being so formed that it can be gilded, silvered, coloured, washed, or other like process, be so dealt with as to resemble any of the Queen's current gold or silver coin, he shall be guilty, in England and Ireland of a misdemeanour, and in Scotland of a crime and offence, and on being convicted, shall be liable to be imprisoned for any term not exceeding one year, with or without hard labour.

Medical Men. The Medical Act (21 & 22 Vic. c. 90), amended in a few particulars by 22 Vic. c. 4 and 23 Vic. c. 7, provides for the formation of a general "medical register of all persons qualified to practise in medicine or surgery;" and a person so registered is entitled to practise medicine or surgery, or both, in any part of the Queen's dominions, and to demand and recover in any court of law, with "full costs of suit," reasonable charges for professional aid, &c., and the costs of any medicines or other medical or surgical appliances rendered or supplied to patients. By section 32, after Jan. 1, 1861, no person shall be entitled to recover any charge in a court of law for medical or surgical advice or attendance, or for the performance of an operation, or for medicine which he shall have *both supplied and prescribed*, unless he shall prove at the time that he is registered under this Act.

The following persons are entitled to be registered under this Act:—

1. Any fellow, member, licentiate or extra licentiate of the Royal College of Physicians of London.

2. The same of the Royal College of Physicians of Edinburgh.

3. Any fellow or licentiate of the King's and Queen's College of Physicians of Ireland.

4. Any fellow, or member, or licentiate in midwifery of the Royal College of Surgeons of England.

5. Any fellow or licentiate of the Royal College of Surgeons of Edinburgh.

6. Any fellow or licentiate of the Faculty of Physicians and Surgeons at Glasgow.

7. Any fellow or licentiate of the Royal College of Surgeons in Ireland.

8. Any licentiate of the Society of Apothecaries, London.

9. Any licentiate of the Apothecaries' Hall, Dublin.

10. Any doctor, or bachelor, or licentiate of medicine, or master in surgery in any university of the United Kingdom; or doctor of medicine by doctorate granted prior to passing of this Act by the Archbishop of Canterbury.

11. Any doctor of medicine of any foreign or colonial university or college, practising as a physician in the United Kingdom before October 1, 1858, who shall produce certificates to the satisfaction of the council of his having taken his degree of doctor of medicine after regular examination, or who shall satisfy the council that there is sufficient reason for admitting him to be registered.

Medical Profession. The main provisions that govern the legal status of medical men are contained in the before-mentioned Acts, which have been supplemented by numerous additional Acts, including 25 & 26 Vic. c. 91, constituting Medical Councils; 32 & 33, c. 117, secs. 1, 3, 4 (Sale of Poisons); 36 & 37, c. 55; 37 & 38 c. 34, sec. 3 (Apothecaries); 38 & 39, c. 43; 38 & 39, c. 57, sec. 30 (Sale of Poisons); 39 & 40, c. 40 (Medical Practitioners); 39 & 40, c. 41; 41 & 42, c. 33, secs. 16, 28 (Dentists).

Memorandum of Association is the document required to be signed by seven or more persons, the registration of which suffices to incorporate a company with any legal object.

Mensa et Thora. A phrase anciently used in the old Ecclesiastical Courts, and still sometimes resorted to in connection with the Divorce Court, signifying separate "from bed and board."

Merchandise Marks Act of 1862 (25 & 26 Vic. c. 88) provides against the forgery of trade marks, and affects contracts with reference to the genuineness or otherwise of trade marks. See also "Trade Marks."

Merchant Seamen. Various Acts relating to this class of persons provide that local marine boards shall be established at certain of the seaports of the United Kingdom for carrying into effect their provisions, under the superintendence of the Board of Trade. And that in every such seaport the local marine board shall establish a mercantile marine office or offices, under

the management of superintendents ; whose business it shall be to afford facilities for engaging seamen by keeping registries of their names and characters ; to superintend and facilitate their engagement and discharge ; to provide means for securing the presence on board at the proper time of men who are so engaged ; to facilitate the making of apprenticeships to the sea service ; and generally to perform such other duties relating to merchant seamen and merchant ships as shall be committed to them by the Board of Trade. It is further provided that examinations shall be instituted for persons intending to become masters or mates of foreign-going ships, or home trade passenger ships, before examiners appointed by the local marine board. And that no person shall be employed in a foreign-going ship as master, or as first or second or only mate—or in a home trade passenger ship as master, or first or only mate—unless he possesses a “certificate of competency” as the result of such examination ; or (in the case of a person who has attained a certain rank in the service of Her Majesty) a “certificate of service ;” either of which certificates (according to the nature of the case) is to be granted by the Board of Trade to such persons as it finds to be entitled to them. In addition to these provisions, there are a variety of others intended for the protection of seamen and for promoting their health and comfort ; from among which the following may be extracted :—That the master of every ship—except those of less than eighty tons burden, exclusively employed in the coasting trade of the United Kingdom—shall enter into an agreement with every seaman whom he carries to sea from any part of the United Kingdom. This is to be in a form sanctioned by the Board of Trade, and signed by both master and seaman ; and it is to set forth the nature and duration of the voyage ; the number and description of the crew ; the time at which each seamen is to be on board and to begin work ; the capacity in which he is to serve ; the amount of wages ; a scale of provisions ; regulations as to conduct ; and such punishments for misconduct as the form issued by the Board of Trade shall have sanctioned, and as the parties shall agree to adopt. The Acts also provide that no right to wages shall be dependent on the earning of freight ; and that every stipulation on the part of the seamen for abandoning his right to wages, in the event of the loss of the ship, shall be inoperative. That every place occupied by any seaman or apprentice in any ship shall have such space as in Acts particularly specified ; shall be kept free from stores or goods of

any kind, not being the property of the crew in use during the voyage, and shall be properly caulked and constructed, and well ventilated. That every ship navigating between the United Kingdom and any place out of the same shall be properly supplied with medicines, to be examined by medical inspectors to be appointed for that purpose. That "official log-books" shall be kept in every ship (except those employed exclusively in the coasting trade of the United Kingdom), in such form as prescribed by the Board of Trade, either in connection with or distinct from the ordinary log-books; and that in all cases entry shall be made in the official log-books as soon as possible after the occurrence to which it relates; and that among the occurrences shall be entered every punishment inflicted (together with the offence), and every case of illness, injury, or death. To secure also the great object of affording general information from time to time as to the state of our mercantile marine, it is provided that there shall be in the port of London a "general register and record office for seamen," under the management of a registrar-general of seamen; that the master of every foreign-going ship shall, within forty-eight hours after her arrival at her final port of destination in the United Kingdom, or upon discharge of her crew—whichever first happens—deliver to the superintendent of the mercantile marine office before whom the crew is discharged a list, containing, *inter alia*, the name and the date of the ship's register, and her registered tonnage; the length and general nature of the voyage and employment; the names, ages, and places of birth of the masters, the crew, and the apprentices; their qualities on board their last ships or other employment; and the dates and places of their joining the ship. And also that the master or owner of every home trade ship shall, every half-year, transmit or deliver to some such superintendent in the United Kingdom a similar list for the preceding half-year; and that all such lists shall be transmitted by the superintendents to the registrar-general of seamen, to be by him recorded and preserved, and produced to any person desirous of inspecting them. In addition to this, it is directed that the collector or comptroller of customs at every port in the United Kingdom shall, every half-year, transmit to the same officer a list of all ships registered in such port; and also of all ships whose registers have been transferred or cancelled in such port since the last preceding return.

Merchant Shipping is mainly subject to the Merchant Shipping Act, 1854 (17 & 18 Vic. c. 104), supplemented by parts

of other Acts in great variety, and amended in recent years by Acts in 1877 (40 & 41 Vic. c. 16), to facilitate the removal of wrecks obstructing navigation; 1879 (42 & 43 Vic. c. 72), to provide for the re-hearing of investigations into shipping casualties, and to amend the rules as to the mode of holding, and procedure at, such investigations; 1880 (43 & 44 Vic. cc. 18, 22, and 43), limiting the number of owners of any one ship to sixty-four individuals, providing for certain fees and expenses and sums receivable and payable by the Board of Trade, and to provide for the safe carriage of grain cargoes by merchant shipping; 1882 (45 & 46 Vic. c. 55), providing for charges on and payments to the Mercantile Marine Fund, and to expenses of prosecutions for offences committed at sea.

The Merchant Shipping (Fishing Boats) Act is dealt with under the head of "Fisheries."

Mesne signifies intermediate, and applies to every person who holds land of one person and lets it to another. In a broad sense it applies to every so-called landlord, who must hold his freehold of the Crown, or his lease of the freeholder, while letting it to the occupier.

Messuage is a house and its surroundings, usually limited to outbuildings, a yard, garden and orchard, but not very clearly defined.

Metage is the measuring of goods for the purpose of public record, or to determine the amount of taxation due upon them.

Metric Weights and Measures are those divided or subdivided by decimals. The use of them is expressly legalized by the Act of 1878 (41 & 42 Vic. c. 49, secs. 18, 21), but the permission seems to be a dead letter.

Metropolis Valuation Act. This important statute of 1869 (32 & 33 Vic. c. 67) created for the metropolis a system of assessment for local rates in many respects different to that which prevails elsewhere.

Metropolis Management Act. This Act of 1855 (18 & 19 Vic. c. 120), otherwise known as Sir Benjamin Hall's Act, was the basis of the London vestries and district boards within the metropolitan area and outside the city, which was exempted from the provisions of the Act. Recent supplementary Acts include those of 1875 (38 & 39 Vic. c. 65); 1876 (39 & 40 Vic. c. 55); 1877 (40 & 41 Vic. cc. 35 and 52); 1878 (41 & 42 Vic. cc. 29 and 87), the former providing for the Cleopatra Needle; 1879 (42 & 43 Vic. c. 69); 1881 (44 & 45 Vic. c. 34), for the conversion of old burial-grounds into public open spaces.

Metropolis, Cholera in the. See "Cholera."

Metropolitan Baths and Wash-houses. An Act was passed in 1878 (41 & 42 Vic. c. 14) for the extension of baths and wash-houses in the metropolis and elsewhere.

Metropolitan Board of Works. This was the central body created under the Metropolis Management Act before referred to. Elected by the vestries and district boards it was always independent of the direct votes of the ratepayers from which it was derived. The Metropolis Board of Works (Money) Act, 1888, gives further powers for the borrowing of more than four millions sterling upon the security of Metropolitan Consolidated Stock and Metropolitan Bills, and for the expenditure thereof in various ways, or the lending thereof to metropolitan vestries, boards of guardians, the London School Board, and other metropolitan public bodies.

Metropolitan Building Acts were passed in 1844 (7 & 8 Vic. c. 84, secs. 54-63); 1855 (18 & 19 Vic. c. 122); 1860 (23 & 24 Vic. c. 52); 1861 (24 & 25 Vic. c. 87); 1862 (25 & 26 Vic. c. 102); 1869 (32 & 33 Vic. c. 82); 1870 (34 Vic. c. 39); 1878 (41 & 42 Vic. c. 32).

Metropolitan Commons. An Act of 1878 (41 & 42 Vic. c. 71) extends to metropolitan commons certain provisions of the Commons Act, 1876.

Metropolitan Gas Acts. In addition to the numerous Acts constituting, empowering, and limiting each company respectively, they are all subject to the Acts of 1860 (23 & 24 Vic. c. 125) and 1870 (34 Vic. c. 41).

Metropolitan Police. This body, specially constituted independently of local management, was originated in 1829 (10 Geo. IV. c. 44), and extended by 2 & 3 Vic. c. 47; 17 & 18, c. 94; 19 & 20, c. 2; 20 & 21, c. 64; 24 & 25, c. 124; 30 & 31, c. 39; 31 & 32, c. 67; 32 & 33, c. 67.

Metropolitan Poor. Under a special Act (the Metropolitan Poor Act, 1867-80 Vic. c. 6) it is provided (sec. 61) that there shall be a fund called the Metropolitan Common Poor Fund, raised by contributions from the several unions, parishes, and places in the metropolis. This fund is (by sec. 69) to be applied for the following purposes: 1. For the maintenance of lunatics in asylums, registered hospitals and licensed houses, and of insane poor in asylums under this Act, except such expenses as are chargeable to the county rate. 2. For the maintenance of patients in any asylum specially provided under this Act for patients suffering from fever or small-pox. 3. For all medicine

and medical and surgical appliances supplied to the poor in receipt of relief by guardians under this Act, or any of the Poor Law Acts. 4. For the salaries of all officers employed by the guardians in and about the relief of the poor by the managers of district schools, under "The Poor Law Amendment Act, 1844," and by the managers of asylums under this Act, and also the salaries of the dispensers and other persons employed in dispensaries under this Act, provided the appointments of the officers have been sanctioned by the Poor Law Board. 5. For compensation to certain officers affected by the operation of this Act. 6. For fees for registration of births and deaths. 7. For fees for and other expenses of vaccination. 8. For maintenance of pauper children in district, separate, certificated and licensed schools. 9. For relief of destitute persons certified by the auditor, and provision of temporary wards and other places of reception approved by the Poor Law Board, under the Metropolitan Houseless Poor Acts of 1864 and 1865. After each half-yearly audit the auditors shall (sec. 76), within such time as the Poor Law Board from time to time direct, certify to the Poor Law Board the amount actually expended by each union or parish in respect of expenses which are to be repaid out of the Common Poor Fund; and the Poor Law Board shall, by precept under the seal of the Board, direct the receiver to repay out of that fund to the guardians of the unions and parishes the several sums so expended, and the amount repaid shall be applied by them in aid of the fund chargeable with the relief of the poor.

Thus certain expenses connected with the relief of the poor are borne in common by all the parishes and unions of the metropolis: the sections above cited providing the machinery for the purpose.

Metropolis Valuation. An Act of 1875 (38 & 39 Vic. c. 32) makes some alterations in the valuation of property for assessments.

Metropolis, Music and Dancing in the. The Act of 1752 (25 Geo. II. c. 36) imposed special restrictions upon public music and dancing in the metropolis, which has continued in force ever since, with the exception of an amendment of 1875 (38 Vic. c. 21) which made some slight alterations of hours, but otherwise made no difference.

Michaelmas Term is from Nov. 2 to Nov. 25 or 26. It is qualified in its application since 1875.

Middlesex Registry. This is a registry peculiar to the metropolitan county, the like of which is not provided elsewhere.

It was instituted in 1709 (7 Anne c. 20) for the voluntary registration of deeds and wills so far as they relate to Middlesex only. Registration being in no case compulsory, it is very seldom resorted to.

Military Tenures were part of the feudal system.

Militia. By the feudal law all the military tenants of the Crown were bound to furnish, for every knight's fee, a knight or soldier to attend the king in his wars for forty days in a year. This personal service about the time of Henry II. was commuted for a money payment called escuage or scutage, as to which various provisions were subsequently made, now obsolete. At length, at the Restoration, the military tenures with their various incidents were swept away by statute 12 Car. II. c. 24. In the meantime, besides those who were by their tenure bound to perform forty days' service in the field, first the assize of arms, enacted 27 Hen. II., and afterwards the statute of Winchester, under Edward I., obliged every man according to his estate and degree to provide a determinate quantity of such arms as were then in use, in order to keep the peace; and constables were appointed in all hundreds by the latter statute to see that such arms were provided. These weapons were changed by the statute 4 & 5 Ph. and M. c. 2 into others of more modern service; but both this and the former provisions were repealed in the reign of James I. While these continued in force it was usual from time to time for our princes to issue commissions of array, to muster and array the inhabitants of every district; and the form of the commission of array was settled in parliament in the fifth year of Henry IV., so as to prevent the insertion therein of any new penal clauses. About the time of Henry VIII. or Edward VI., lieutenants began to be introduced, as standing representatives of the Crown, to keep the counties in military order; for we find them mentioned as known officers in the statute 4 & 5 Ph. and M. c. 8. The introduction of these commissions of lieutenancy, which contained in substance the same powers as the old commissions of array, caused the latter to fall into disuse. In this state things continued till the repeal of the statutes of armour in the reign of James I.; after this, when Charles I. had, during his northern expedition, issued commissions of lieutenancy and exerted some military powers, it became a question in parliament how far the power of the militia did inherently reside in the king; and this question became ultimately the immediate cause of the rupture between that king and his parliament. Soon after the Restoration, when

the military tenures were abolished, it was thought proper to ascertain the power of the militia, to recognize the sole power of the Crown to govern and command them, and to put the whole into a more regular method of military subordination. And the order in which the militia now stands by law is principally built upon the statutes which were then enacted—viz., 13 Car. II. st. 1, c. 6; 13 & 14 Car. II. c. 3; and 15 Car. II. c. 4. It is true that the two last of these are apparently repealed; but many of their provisions are now re-enacted, with the addition of some new regulations, by subsequent militia laws. The present system may be said to be founded on "The General Militia Act" (42 Geo. III. c. 90), which consolidates the former statutes on this subject; and the general scheme is to discipline, at stated periods, for the internal defence of the country, a certain number of the inhabitants of every county; enlisted for five years, and officered by the lord-lieutenant, the deputy-lieutenants, and other persons, with a certain qualification in point of property, under a commission from the Crown. The militia is raised, in default of voluntary enlistment, by compulsory levy in the way of ballot—to which power it has not latterly been found necessary to have recourse. The militia are entitled to pay while on service and during the period of training. (See title "Army and Mutiny Act.")

Mines. These are subject to the Mines Regulation Acts, 1872 (35 & 36 Vic. cc. 76, 77); which are supplemented by the Act of 1875 (38 & 39 Vic. c. 39).

Miniments, or Muniments, are public records.

Minor Canons. By sec. 45 of the 3 & 4 Will. IV. c. 113, the dean and chapter of any cathedral church have power to appoint a regulated number of minor canons with salaries.

Minority. A minor is in general a person under twenty-one years old; but a child before arriving at that age has certain capacities. A male at twelve years old may take the oath of allegiance; at fourteen is at years of discretion, and therefore may consent or disagree to marriage, may choose his guardian and may be an executor (though he cannot act till he is of age); and at twenty-one is at his own disposal, and may alien and devise his lands, goods, and chattels. A female also at seven years of age may be betrothed or given in marriage; at nine is entitled to dower; at twelve is at years of maturity and therefore may consent or disagree to marriage; at fourteen is at years of legal discretion and may choose a guardian; at seventeen may be an executrix; and at twenty-one may dispose of herself and her lands. (See further "Minors.")

Minors (or infants) have various privileges and various disabilities; but their very disabilities are privileges, in order to secure them from hurting themselves by their own improvident acts. An infant cannot be sued but under the protection and by joining the name of his guardian; but he may sue by his guardian or by his next friend. In criminal cases, an infant of the age of fourteen years may be capitally punished; but under the age of seven he cannot. The period between seven and fourteen is subject to much uncertainty; for an infant above seven and below fourteen is generally speaking presumed to be innocent, unless he is proved to be *doli capax*, that is, of capacity to understand the nature of the crime. With regard to estates and civil property, it may be said in general that an infant shall lose nothing by non-claim or neglect of demanding his right, nor shall any other laches or negligence be imputed to him, except in some very particular cases. It is generally true that an infant can neither aliene his lands, nor do any legal act, nor make a deed, nor indeed any manner of contract that will bind him. But infant trustees or mortgagees are enabled to convey, under the direction of a court of equity, the estates which they hold in trust or mortgage to such person as the court shall appoint. So infants may make conveyances and mortgages under order of the court in suits for the payment of debts, and, with the consent of the court, may make valid settlements of either real or personal estate on their marriage. An infant, moreover, who has an advowson, may present to the benefice on its becoming void, at least with the concurrence of his guardian. It is generally true that an infant's deeds or contracts are voidable, so that when he comes of age he may either disagree or agree to be bound by them. He may, however, validly bind himself by indentures as an apprentice for seven years. But an infant may bind himself to pay for necessities supplied to him. The question what are necessities must always vary according to the estate and position of the infant, and is a question for a jury, subject to the control and direction of the court. But as to any contract, other than one for necessities, though he may if he choose enforce it, it cannot be enforced against him, unless he has ratified it after he has come of age. Such ratification must by Lord Tenterden's Act (9 Geo. IV. c. 14) be in writing. (See title "Guardian and Ward.")

Mint, Master of the. An officer who receives bullion from goldsmiths for coinage and pays them for it, and superintends everything belonging to the mint. It is provided by 88

Vic. c. 10, sec. 14, that the Chancellor of the Exchequer for the time being shall in future be master of the mint.

Miscreant, though generally regarded as a broad term of intense opprobrium, is, in strictness, one who is a pervert—who has forsaken one religion for another.

Misdemeanor is an offence against the law falling short of a felony, and the distinction was formerly defined with tolerable clearness, but it has become obscure. At common law a misdemeanor can only be punished by fine and imprisonment without hard labour, but special statutes have made some misdemeanors punishable with hard labour; so that some felonies may be punished lightly, while some misdemeanors may be punished with much greater severity. This anomalous state of things is rendered worse by the enormous latitude allowed to judges. As they have generally so much to do with making the laws they contrive to retain in this respect what is very flatteringly called “discretion;” but laymen who have had any opportunity for observation are generally of opinion that the system needs sweeping reform.

Misdirection is when a judge, in ignorance or forgetfulness of the law upon some certain points, conveys to the jury a wrong impression whereby their verdict may be influenced. It has always been customary to grant a new trial upon proof of such misdirection, and, under the Judicature Act, 1875, the aggrieved party is entitled to a new trial as of right.

Misericordia is when a person is amerced, or has a fine inflicted upon him, beyond the measure of the offence or by an inadequate authority.

Misfeasance is the wrongful exercise of an ostensibly lawful right, as distinguished from malfeasance and nonfeasance.

Misnomer is a person called by a wrong name, which was formerly fatal to a summons, writ, or action; but there is now much margin allowed for the amendment of such errors.

Misprision. A term derived from the old French *mespris*, a neglect or contempt. Misprisions are, in the acceptance of our law, generally understood to be all such high offences as are under the degree of capital, but nearly bordering thereon. Misprisions are generally divided into two sorts: negative, which consist in the concealment of something which ought to be revealed; and positive, which consist in the commission of something which ought not to be done. Thus misprision consists in the bare knowledge and concealment of treason, without any degree of assent thereto; for any assent makes the party a

principal traitor, as indeed the concealment, which was construed aiding and abetting, did at the common law. But it is now enacted, by 1 & 2 Ph. and M. c. 10, that a bare concealment of treason shall be only held a misprision. Misprision of felony is also the concealment of a felony, which a man knows but never assented to. Misprisions which are positive are generally denominated contempts or high misdemeanors—as the maladministration of public officers, embezzling public money, contempts against the royal prerogative, and the like.

Mittimus is the instrument used in transferring a case from one court to another.

Modus, otherwise called *modus decimandi*, is a partial exemption from tithes.

Money Bills. It is the ancient indisputable right and privilege of the House of Commons, that all grants of subsidies and parliamentary aids do begin in their house and are first bestowed by them; although their grants are not effectual to all intents and purposes until they have the assent of the other two branches of the legislature.

Monition is a warning to an offender not to repeat the offence. It is generally limited to the practice of the ecclesiastical courts.

Monopolies. See “Patents.”

Mortgage is a pledge or pawn of landed property, otherwise a sale upon condition that the mortgagor shall have the right of re-purchase on return of the amount advanced together with interest and expenses, which is called the equity of redemption; and the person who extinguishes a mortgage by re-paying the required amount is said to redeem and is called the redemptioner. On the other hand, if the mortgagor fails to pay the stipulated interest or to repay the principal according to the deed—or if not therein expressly provided, then after due notice—the mortgagee has the power of foreclosure, that is, of taking possession of the mortgaged property as a satisfaction for the debt. Unless otherwise expressly provided the mortgagor is entitled to six months’ notice of foreclosure, and the mortgagee is entitled to six months’ notice of redemption. Deposit of deeds without a separate mortgage being executed, is called and has the force of an equitable mortgage.

Mortmain, Statutes of. The alienation of lands in mortmain (*in mortua manu*) is an alienation to any corporation, sole or aggregate, ecclesiastical or temporal. But these purchases having been chiefly made to religious houses, in consequence

whereof the land became perpetually inherent in one dead hand, this has occasioned the general appellation of mortmain to be applied to such alienations, and the religious houses themselves to be principally considered in forming the statutes of mortmain. By the common law any man might dispose of his lands to any other private man at his own discretion ; especially when the feudal restraints on alienation were worn away. Yet, in consequence of these restraints, it always was and still is necessary for corporations to have a licence in mortmain from the Crown or parliament to enable them to purchase lands ; for, as the sovereign is the ultimate lord of every fee, he ought not, unless by his own consent, to lose his privilege of escheats and other feudal profits, by the vesting of lands in tenants that can never be attainted or die. But besides his general licence from the sovereign, as lord paramount of the kingdom, it was also requisite, whenever there was a mesne or intermediate lord between the Crown and the alienor, to obtain his licence also (upon the same feudal principles) for the alienation of the specific lands. And if no such licence were obtained, the sovereign or other lord might respectively enter on the land so aliened in mortmain as a forfeiture. Notwithstanding these regulations, the clergy within less than two centuries of the Conquest continued to get immense estates into their hands. The clergy, moreover, had recourse to numerous devices and contrivances for evading the laws applicable to alienations in mortmain. This produced the statute *de religiosis* 7 Ed. I., which provided that no person, religious or other whatsoever, should buy or sell, or receive under pretence of a gift, or term of years, or any other title whatsoever, nor should by any act of ingenuity appropriate to himself any lands or tenements in mortmain, upon pain that the immediate lord of the fee, or, on his default for one year, the lords paramount, and, in default of all of them, the king might enter thereon as a forfeiture. The clergy then invented the system of bringing collusive and fictitious actions to recover lands, the defendant by collusion making no defence. Hence arose what were long known in our law as *common recoveries*. But upon this, the statute 18 Ed. I. c. 32 enacted, that in such cases a jury shall try the true right of the plaintiffs to the land, and if the religious house or corporation be found to have it, they shall recover seisin ; otherwise it shall be forfeited to the immediate lord of the fee, or else to the next lord or to the king. The clergy then, to evade these stringent laws, had recourse to a distinction which has hence thoroughly

engrafted itself on our law and has exercised a most important effect. They devised a new method of conveyance, by which the lands were granted, not to themselves directly, but to nominal feoffees to the *use* of the religious houses; thus distinguishing between the nominal ownership and the use and receiving the actual profits, while the seizin of the lands remained in the nominal feoffee. And it is to these inventions that modern conveyancers are indebted for the introduction of uses and trusts. But, unfortunately for the inventors themselves, they did not long enjoy the advantage of their new device; for the statute 15 Rich. II. c. 5 enacted that the lands which had so been purchased to uses should be amortised by licence from the Crown, or else be sold to private persons, and that, for the future, uses should be subject to the statutes in mortmain and forfeitable like the lands themselves. Lastly, as during the times of popery lands were frequently given to superstitious uses, though not to any corporate bodies, or even made liable in the hands of heirs and devisees to the charge of obits, chaunteries, and the like, the statute 23 Hen. VIII. c. 10 declared that all future grants of lands for any of the purposes aforesaid, if granted for any longer term than twenty years, should be void. It was in later times provided by 7 & 8 Will. III. c. 37 that the Crown in future at its own discretion may grant licences to aliene or take in mortmain, of whomsoever the tenements may be holden. It was also provided by 17 Car. II. c. 3 that appropriators, in the case of small livings, might annex the great tithes to the vicarages; and that all benefices under £100 a year might be augmented by the purchase of lands without licence of mortmain in either case. This statute has since been repealed, but various provisions of a similar kind have been made by subsequent statutes. The like provision was also made in favour of the governors of Queen Anne's Bounty. It has also been held that the statute of 23 Hen. VIII. above mentioned did not extend to anything but *superstitious* uses; and that therefore a man may give lands for the maintenance of a school, an hospital, or any other *charitable* use. But to prevent persons on their deathbeds from making large and improvident dispositions in favour of charities, it was provided by 9 Geo. II. c. 36 that no lands or tenements, or money to be laid out thereon, shall be given for or charged with any charitable uses whatsoever, unless by deed indented, executed in the presence of two witnesses, twelve calendar months before the death of the donor, and enrolled in the Court of Chancery within six months after its execution

(except stock in the public funds, which may be transferred within six months previous to the donor's death), and unless such gift be made to take effect immediately and be without power of revocation, and that all other gifts shall be void. The universities, certain colleges and public institutions are exempted from these provisions.

Mortuaries. A customary gift claimed by and due to the minister in many parishes on the death of his parishioners. In former times, a man's lord was entitled to his best chattel as a heriot, and the Church to the second best as a mortuary. But the custom was different in different places. Mortuaries were reduced to regulated money payments by 21 Hen. VIII. c. 6.

Moveable Terms are law terms which vary in date according to Easter.

Multure is the charge of a miller for grinding another person's corn.

Municipal Corporation Act (5 & 6 Will. IV. c. 76). An Act by which the corporate towns or boroughs enumerated in the schedules A and B annexed thereto (comprising, with the exception of London and a few other places, the whole of those in England and Wales) are placed under one uniform plan of constitution newly devised by the Act. (See also "Corporation.")

Municipal Elections. The Ballot Act, 1872, provided that the poll at municipal elections should be taken by ballot in the same manner as at parliamentary elections.

Municipal Elections, Corrupt Practices in. An Act was passed in the session of 1872 (35 & 36 Vic. c. 60) for the prevention of corrupt practices at municipal elections. Bribery, treating, undue influence, and personation are deemed corrupt practices for the purposes of the Act. They respectively include anything committed or done which, if committed or done at a parliamentary election, would be therein included; and any person guilty of any such offence at a municipal election is made liable to the same punishment as he would be at a parliamentary election.

Municipal Law. That law which pertains solely to the citizens and inhabitants of a state, and is thus distinguished from political law, commercial law, and the law of nations.

Music. An Act was passed in 1882 (45 & 46 Vic. c. 40) to amend the law of copyright in musical compositions.

Music and Dancing. See "Metropolis."

Mutiny Act. This is passed every year for one year only, and is liable to numerous variations from year to year. It governs the discipline of the army for the time being.

National Debt. The national debt is in part funded and in part unfunded, the former being that which is secured to the national creditor upon the public funds, the latter that which is not so provided for.

Naturalization. An alien can be naturalized only by Act of Parliament, or by a certificate of a Secretary of State, pursuant to the provisions of 7 & 8 Vic. c. 66. By naturalization by Act of Parliament an alien is put, with some exceptions, in exactly the same state as if he had been born in the king's allegiance. It has, therefore, a retrospective effect, in which—among other articles—it differs from mere denization. Thus, if a man be naturalized by Act of Parliament, his son, born before naturalization, may inherit from him. No bill for naturalization can be received in either House of Parliament without a clause disabling the alien from obtaining any immunity in trade thereby in any foreign country, unless he shall have resided in Britain for seven years next after the commencement of the session in which he is naturalized. Neither can any person be naturalized by Act of Parliament unless he swears allegiance in the presence of the parliament. But these provisions have been usually dispensed with by special Acts of Parliament previous to bills of naturalization of any foreign princes or princesses, and any other persons distinguished for their rank or services. As for the second method of naturalization, viz., that by certificate of the Secretary of State, under the 7 & 8 Vic. c. 66, it may be obtained by any alien coming to reside in any part of Great Britain or Ireland with intent to settle therein. He is to present a memorial for the purpose to one of the Secretaries of State, who may, after satisfying himself of the truth of the allegations contained in the memorial, issue, if he think fit, a certificate granting to the memorialist—upon his taking the oath of allegiance within sixty days from the date of such certificate—all the rights and capacities of a British subject, except the capacity of being a member of the Privy Council or of either House of Parliament, or of holding any office under the Crown, or of taking any grant from the Crown.

Navigation, the Laws of. These laws concern the United Kingdom and the British possessions in general, in reference to the trading intercourse which foreign nations are allowed to hold with them. There were formerly considerable restrictions upon foreign ships trading in the ports of England and its dependencies. This policy has been generally relinquished; except only as regards the trade from one part of any British

possession in Asia, Africa, or America, to another part of the same possession, as to which the law still is that it shall not be carried on in any but British ships, though Her Majesty is empowered to remove even this restriction in certain cases. In other respects foreign vessels are now generally allowed a free commercial intercourse with this country and its dependencies, upon terms of perfect equality with our own vessels. This concession, however, is qualified by some important provisions tending to confine it to such nations as consent, on the other hand, to concede to us a reciprocal and equal freedom. For by 16 & 17 Vic. c. 107, secs. 324-326, and by 18 & 19 Vic. c. 96, sec. 15, it is enacted that, if it shall be made to appear to Her Majesty that British vessels are subject in any foreign country to any prohibitions or restrictions as to the voyages in which they may engage, or the articles which they may import or export, Her Majesty may, by order in council, impose such prohibitions and restrictions upon the ships of the same country in reference to the same subject as she may think fit, so as to place such ships as nearly as possible on the same footing as that on which British ships are placed in the parts of the country to which the former ships belong. And further, that if it shall appear to Her Majesty that British ships are directly or indirectly subject in any foreign country to duties or charges from which the national ships of such country are exempt; or that any duties are imposed there upon articles imported or exported in British ships, which are not equally imposed upon the like articles in national vessels; or that any preference is shown, either directly or indirectly, to national vessels over British vessels, or to articles imported or exported in the former over the like articles imported or exported in the latter; or that British trade or navigation are not placed by such country on as advantageous a footing as the trade and navigation of the most favoured nation—Her Majesty may in such case, by order in council, impose such duty or duties of tonnage upon the ships of such nation, or such duty or duties on goods imported or exported in its ships, as may appear justly to countervail the disadvantages to which British trade or navigation is so subjected. Such powers are mostly nominal, being for the most part rendered of no effect by special treaties.

Navy (Royal). See "*Marine Mutiny Act.*"

Conveyance of Sailors. See "*Army Conveyance.*"

Necessaries is an expression that arises in cases concerning the law as to "*Minors*" and "*Husband and Wife.*"

Negligence, in its strict application, is such an omission of an obvious duty as involves culpability, as distinguished from the improper doing of something that is not in itself improper, which is misfeasance.

Neutrality. See "Foreign Enlistment Act."

Never Indebted is the plea for the defence where it is denied that the alleged sale, bargain, contract, or transaction was not legally completed, and that therefore no liability was incurred. Unless that can be sustained in evidence the plea is bad.

Newspapers. Amongst recent Acts are those of 1875 (31 & 39 Vic. c. 22) regulating the postage of newspapers; 1881 (44 & 45 Vic. cc. 19, 60) further providing for conveyance of newspapers by the post-office, and to amend the law of newspaper libel, and to provide for the registration of newspaper proprietors, the principle being that no registered newspaper shall be criminally prosecuted for libel without the fiat of the public prosecutor. The same Act makes the registration of every newspaper compulsory, but without sureties, which were formerly enforced. Newspaper proprietors who advertise illegal weights or measures, lotteries, or betting agents, are liable to penalties for so doing.

New Trial. In all civil actions it is the right of the aggrieved party to have a new trial on any of the following grounds, if proved: Misdirection of the judge; improper admission of evidence; unjustifiable discharge of the jury; refusal of amendment of record; failure of notice to aggrieved party; misconduct of the opposite party; misconduct of the jury; excessive damages; inadequate damages; surprising evidence or ruling which there was no time to rebut; perjury of witness or witnesses; verdict against evidence; some material fact or circumstance disclosed by the trial or subsequently discovered.

Next Friend is the legal designation of the person who proceeds or appears on behalf of another. It formerly applied in numerous cases to married women, but since 1882 all that has passed away. In future the intervention of a next friend can only be necessary in cases of the minority or lunacy of the person acted for.

Next of Kin, with reference to the disposal of personal property, is governed by the Statute of Distributions.

Next Presentation is the right to confer a benefice the next time it becomes vacant.

Night is differently interpreted in various legal contingencies.

The old dictum was based upon the obvious demarcation, from sunset to sunrise. Later it excluded the time during which twilight was sufficient whereby to distinguish a man's features. As affecting burglary, night does not commence till nine in the evening and ends at six in the morning (24 & 25 Vic. c. 96, sec. 1). As affecting poaching, night commences one hour after sunset and ends one hour before sunrise.

Nisi Prius took its origin from an Act of 1285 (13 Edward I. c. 30) known as the Statute of Nisi Prius, under which the sheriff of each county was required to secure the attendance of jurors at Westminster within a time stated, unless, before the expiration of such time, judges came with a commission to hold an assize in the county, in which case the return of jurors was to be at the county town. All that has long since been done away with; but the name remains, and a Nisi Prius Court is wherein civil actions are tried at assizes before a judge and jury.

Nominal Damages are where a jury gives a verdict for the plaintiff with damages under 40s. (generally one farthing), the effect of which is that each side has to pay his own costs, unless the judge intervene—as he is entitled to—and charges the defendant with the plaintiff's costs; but this is rare.

Non Assumpsit. He did not promise.

Non assumpsit infra sex annos. He did not promise within six years.

Non compos mentis refers to any one of such unsound mind as to be incapacitated for the management of his own person or affairs.

Non cul (non culpabilis), not guilty.

Non est factum, it is not his deed.

Non est inventus, he has not been found.

Non liquet, it is not clear.

Non obstante veredicto, notwithstanding the verdict.

Non sequitur, it does not follow.

Nonconformists are dissenters from the Established Church.

Nonfeasance is the omission to do something which ought to have been done, as distinguished from malfeasance.

Non-Jurors. The name given to those who refused, after the Revolution, to take the oath of allegiance to William III.

Nonsuit is where the plaintiff has failed to make out his case, either from its inherent weakness or in consequence of some omission, or from non-appearance. The plaintiff may elect to accept a nonsuit, or it may be imposed upon him. It generally has the same effect as a verdict for the defendant who is entitled

to reimbursement of his costs, but the court has power to order otherwise.

Not Found is equivalent to "no bill" in a return by a grand jury.

Not Guilty, as a plea in practice, is that the defendant or accused is prepared with a defence.

Notary, of old, was one who wrote for those who could not write. In modern times the designation applies to a person who attests written documents, especially those required to be used in foreign countries. But the chief function of a notary in London is to note or prove when a bill is dishonoured, and to protest it when required.

Notice of Dishonour. See "Bills."

Noting a Bill arises when a bill is dishonoured. It is not an essential process if the holder thinks proper to rely upon his own evidence of presentation; but it is customary for him to instruct a notary to present the bill again, and, if it be again dishonoured, to make a note of the fact, which is generally conclusive evidence of the dishonour, the defaulter being legally chargeable with the expense of noting.

Notice of Title is where one man gives another notice that he claims to be the legal or equitable owner of land referred to—as when a purchaser of an occupied house gives the tenant notice to pay the rent to him. It is common for a mortgagee, in certain cases, to give notice of his title under the mortgage.

Notice to Quit, when applied to a tenancy from year to year, must be given not less than six months before the end of the year, so that the tenancy may end on the same day of the year upon which it commenced. In tenancies for less than a year, the interval between the notice and the expiration must be not less than the term for which each successive instalment of rent is payable. Notice to quit in anticipation of the end of a lease (strictly so called) is not legally necessary.

Novation is the extinguishment of an old obligation by undertaking another in lieu of it. Acceptance of a renewed bill is a case in point.

Nude Contract is one without any consideration being expressed. Such a contract is generally void, but there are some exceptions.

Nudum Pactum is when one party agrees to pay or do something without binding the other party to any obligation. It is generally void in law.

Nuisances. See "Health."

Nunc pro tunc is a phrase employed to express the idea that something done is to have the same effect as if done earlier.

Oaths. The obligation to submit to oaths was much relaxed by an Act of 1869 (32 & 33 Vic. c. 68), which for the first time permitted all persons who object to take an oath, or who are objected to as incompetent to take an oath, if the presiding judge is satisfied that the taking of an oath would have no binding effect upon his conscience, to make a solemn promise and declaration. This Act having been interpreted to apply to only the superior courts, it was extended in 1870 (33 & 34 Vic. c. 49) to apply to every case where any person has authority to administer an oath for the taking of evidence.

Obligation is defined as a legal or moral duty, as distinguished from material compulsion.

Obligee is he who is entitled to a legal benefit.

Obligor is he who is under an obligation.

Official Liquidator is the person appointed to conduct the winding-up of a company.

Old Style. Some customs having legal force are still governed by the "old style." Until 1752, the 25th of March was the first day of the year, but by an Act of the previous year (24 Geo. II. c. 23) the first day of the following January was constituted the first day of the year 1752. At the same time the 2nd of September, 1852, was declared to be the 14th, thus skipping twelve days. These things were done in order to adjust dates to the Gregorian Calendar, which has been adopted throughout the world in every country but Russia and some parts of Eastern Europe, where the old style is still adhered to, so as to make all Russian and some other dates twelve days later than elsewhere. The day most commonly observed as a memorial of these things is Old Michaelmas, which is the 11th of October, or twelve days later than the now established day of the same name.

Onus Probandi is the obligation to prove something alleged.

Open Policy applies only in marine insurance. It means that the value of the ship or cargo insured is not expressed, but is left to be determined by evidence in case of loss.

Opening the Commission is the formal commencement by the judges of an assize.

Operative Words of a Deed are those which impose an obligation or confer a power or benefit, as distinguished from the recital or statement of the circumstances.

Order and Disposition means that property in possession

is subject to the control of the possessor, though it may be the property of some one else.

Order of Discharge is the release of a bankrupt from retrospective liabilities.

Order, Payable to. The effect of "the order of" in a bill is, that it is not negotiable until the drawer has endorsed it.

Order of the Day. See "Avoidance of a Decision."

Orders, Holy. There are three orders or degrees in the Church of England—those of bishop, priest, and deacon. (See those titles respectively.)

Ordinary. This name is taken from the Canonists, and is applied to a bishop or any other that hath ordinary jurisdiction in matters ecclesiastical.

Ordination. The form by which *orders* are conferred in the Church of England. The power of ordination lies in the bishop. The orders which may be conferred are three—those of bishop, priest, or deacon.

Ouster is the unlawful dispossession of a rightful possessor.

Out of Court may mean something done elsewhere than in court; or it may mean that a party to an action has no chance, and is nowhere.

Outer Bar is the designation of those barristers who are not Queen's Counsel.

Outlawry is proclaiming some person as deprived of the right of appealing to the law. This was formerly frequent, but is now practically almost if not totally unknown.

Overseer of the Poor. An officer appointed by justices of counties or boroughs—for parishes under 43 Eliz. c. 2, and for townships under 13 & 14 Car. II. c. 12. There cannot be less than two or more than four for each parish or township. The churchwardens are *ex officio* overseers. The duties of an overseer and an assistant overseer are identical, the latter being a paid officer, appointed under 59 Geo. III. c. 12, to assist the overseers. Before the passing of the Poor Law Amendment Act, 1834, it was generally the business of an overseer to appropriate and distribute, as well as to make out and collect, the poor-rate. Where no guardians had been appointed under Gilbert's Act, and there was no select vestry under Sturges Bourne's Act, he was judge of the necessities of applicants for and receivers of parochial relief, an appeal in case of refusal lying to the magistrates in their petty session. But a great alteration in the duties of an overseer was effected by the Poor Law Amendment Act, 1834. By it, the Poor Law Commis-

sioners (who have grown into the Local Government Board) were empowered in any parish, or in any union of parishes, to direct that a board of guardians should be appointed to undertake all matters relating to the relief and management of the poor. As guardians have since that time been elected in every parish and union, the overseers are thus relieved of their duties so far as the relief and housing of the poor is concerned, except that they are still bound to give relief in any case of sudden and urgent necessity; but an overseer is to report to the relieving officer of the union as soon as he is able his having given such relief, and the relief may not be given in money, but only in articles of absolute necessity. His duties are now mainly confined to making and collecting the rate. He must collect all arrears that he can from the fathers of bastard children, and see that the weekly payments are kept up. He manages and collects the rents of parish property, and for the most part conducts the proceedings for an election of guardians. At the end of each quarter he has to submit his accounts to the auditor of the union. An overseer is not entitled to receive any remuneration for his services. By the 59 Geo. III. c. 12, sec. 7, the inhabitants of any parish in vestry assembled may appoint an assistant overseer and determine what salary is to be paid him; and by 2 & 3 Vic. c. 84, sec. 2, the overseers or guardians of any parish may appoint collectors of rates. The inhabitants in vestry assembled may now, under 7 & 8 Vic. c. 101, sec. 61, appoint such collector or assistant overseer to discharge all the duties of an overseer of the poor. The overseers have various other duties cast upon them in the way of making out jury lists and lists of persons entitled to vote at parliamentary elections.

Overt means open or notorious, as distinguished from secret or surreptitious.

Oyer and Terminer. The commission of *oyer and terminer* (one of the four commissions by virtue of which judges of the court of assize sit) gives the judges authority to hear and determine all treasons, felonies, and misdemeanours committed within the county. It is directed to the judges and several others, or any two of them; but only the judges, or serjeants-at-law, or Queen's Counsel, or barristers with a patent of precedence, named in the commissions or in the writs of association and *si non omnes* with which they are accompanied, are of the *quorum*; so that the rest cannot act without the presence of one of them. Under the commission of *oyer and terminer* persons may be tried

whether they be in gaol or not. The words of the commission are to "inquire, hear, and determine," so that by virtue of this commission the judges can only proceed upon an indictment found at the same assizes; for they must first inquire by means of the grand jury or inquest before they are empowered to hear and determine by the help of the petit jury.

Oysters. An Act of 1875 (38 & 39 Vic. c. 15) amends the law with reference to fishing for oysters.

Pacific Islanders. See "Kidnapping."

Palatine. See "County Palatine."

Pains and Penalties, Bill of. When a person has committed some crime of peculiar enormity for which the law provides no adequate punishment, Parliament in its omnipotence may pass a special statute for the purpose of punishing him. Such a statute is introduced in the form of a bill of pains and penalties, and the same proceedings are had thereupon as in the case of an ordinary bill, except that the party implicated is allowed to appear in the House by counsel and to call witnesses. Whereas courts of law are bound to administer only the law as it stood at the time of the commission of the supposed offence, Parliament is not so fettered, but may treat that as an offence which was not an offence against any law existing at the time of its commission. As there is something revolting to one's ideas of justice in such a course of proceeding, recourse has but rarely been had to it. An attempt to have recourse to it against Queen Caroline was signally defeated. That is, we believe, the last instance in which the attempt has been made.

Pairing-off. A practice which is said to have originated in the time of Cromwell, whereby two members of either House of Parliament of opposite opinions agree to absent themselves from voting on a given occasion or during a given period.

Palace Court at Westminster, The. An ancient court holding pleas in all personal actions arising within twelve miles of the palace at Whitehall. It was abolished by 12 & 13 Vic. c. 101, sec. 13.

Palatine Courts. Certain courts of a limited local jurisdiction, having an exclusive cognizance of pleas, in matters both of law and equity. These courts appertain to the Counties Palatine of Lancaster and Durham. These counties have not only their proper courts, but were formerly exempt from the ordinary jurisdiction of the superior courts at Westminster. Now, by 15 & 16 Vic. c. 76, sec. 122, all writs issuing out of the superior courts of common law at Westminster, to be executed in the

counties palatine, shall be directed and delivered to the sheriff, and executed and returned by him; and all records of the superior courts shall be brought to trial (sec. 108) and entered and disposed of in the counties palatine in the same manner as in other counties. The common law courts in the counties palatine, viz., the Court of Common Pleas at Lancaster and the Court of Pleas at Durham, are courts of record; and proceedings in error may be taken from their judgments to the Court of Queen's Bench.

Pale, The, in Irish history, means that portion of the kingdom over which English rule and English law from time to time were acknowledged.

Palmer's Act, so called because passed on the petition of Palmer, the Rugeley murderer (19 & 20 Vic. c. 16), gives the Queen's Bench power to remove trials from any part of the provinces to the Central Criminal Court.

Panel is the list of jurors summoned to serve on any stated occasion.

Pannage is the food found by swine upon commons, such as acorns, &c., their owners being entitled to Common of Pannage.

Paper Books is the designation of copies of demurrer books taken out for the use of the judges.

Paramount, Lord, is the highest tenant of any estate in land. Strictly speaking, the only Lord paramount is the Crown.

Paraphernalia. This is what every widow is entitled to in all cases if the late husband died solvent. Paraphernalia, in its broadest sense, includes furniture of her chamber, wearing apparel, cloth in her possession ready for making up, and all jewellery and ornaments she has ever worn as her own. Where the late husband proves to be insolvent, paraphernalia is liable for his debts except only so far as bare necessities are concerned, not very precisely defined.

Parcels Post. The Act for authorizing the Post Office to carry parcels was passed in 1882 (45 & 46 Vic. c. 74). It prescribes uniform charges for any distance within the British Isles upon the following basis:—

Not exceeding	1lb.	...	...	...	...	...	8d.
"	"	8lbs.	...	...	...	...	6d.
"	"	5lbs.	...	...	...	...	9d.
"	"	7lbs.	...	...	...	...	1s.

Parceners. See "Coparcenary."

Pardon. As all offences of a public nature are regarded by

the law as offences against the sovereign, so it is the prerogative of the sovereign to grant a pardon for any such offence. A pardon must be under the great seal, or warrant under the sign manual. It is a rule, that if the sovereign has been deceived into granting a pardon the pardon will be void; also that no pardon for treason, murder, or rape, shall be allowed, unless the offence be particularly mentioned therein; a pardon may also be conditional. The king's pardon may be pleaded in bar to the indictment; or, after verdict, in arrest of judgment; or, after judgment, in bar of execution. It is necessary, however, that it be pleaded at the first opportunity of doing so, or the defendant will be held to have waived it. The effect of a pardon is to acquit the person pardoned of all corporal penalties and forfeitures annexed to that offence for which he has received pardon. If granted before conviction, it will, in cases of treason or felony, prevent any forfeiture either of lands or goods; on the other hand, it will not, without express words of restitution, divest either the Crown or a subject of any interest already vested in either, by force of an attainder or conviction precedent.

The Crown cannot grant a pardon (under the *Habeas Corpus* Act, 31 Car. II. c. 2) for committing any man to prison out of the realm; nor where private justice is principally concerned in the prosecution of an offender: that is, the king cannot pardon a common nuisance while it remains unabated, or so as to prevent an abatement of it; though afterwards, when it is abated, he may remit the fine. It was enacted by the Act of Settlement (12 & 13 Will. III. c. 2), "that no pardon under the great seal of England shall be *pleadable* to an impeachment by the Commons in parliament." But after the impeachment has been solemnly heard and determined, the king, if the party impeached has been convicted and sentenced, may grant a pardon.

A pardon may also be granted in all cases and under all circumstances by Act of Parliament, and such a pardon need not be pleaded, but the courts will take judicial cognizance of it.

Parent and Child. All children are either legitimate or illegitimate. The former are those who are born of parents between whom the relation of marriage subsisted at the time of their birth. A child born in wedlock is presumed to be legitimate unless it can be shown conclusively that it could not possibly have been begotten by its mother's husband. Other children are illegitimate. The subsequent marriage of its parents does not make an illegitimate child legitimate by the law of this country, though it did by the Roman law, and still does by the law of

Scotland and many continental nations. As to the duties of parents towards their legitimate children, the first is to maintain them. This duty is enforced by statute. The father and mother, grandfather and grandmother, of poor persons not able to work, are bound to maintain them at their own charges, if of sufficient ability, according as the quarter sessions or two justices in petty sessions shall direct. If a parent runs away and leaves his children chargeable to a parish, the churchwardens and overseers shall, upon obtaining an order from the magistrate for that purpose, seize his rents, goods and chattels, and dispose of them towards their relief. Moreover, he himself, in such case, may be committed to hard labour as a vagrant, as he may also be if, though able, he shall wilfully refuse or neglect to maintain his family, whereby they become chargeable. By 4 & 5 Will. IV. c. 76 all relief given under the poor-laws to any child under the age of sixteen (not being blind, or deaf or dumb) shall be considered as given to the father, or, if he is dead, to the mother. No person, however, is bound to provide a maintenance for his issue except where the children are impotent and unable to work, and then is only obliged to find them in necessaries. Every man is also liable to maintain his wife's children born before his marriage to her, whether legitimate or illegitimate, until they attain the age of sixteen. Children are further entitled to the protection of their parents, who may maintain them in their law suits and justify an assault in defence of them. (As to the duty of the parent to provide for the education of his children, see "Education.")

As to the power of a parent over a child, the father is, generally speaking, guardian to his infant children, and is entitled to the control of their persons till they arrive at the age of twenty-one. By 24 & 25 Vic. c. 100, sec. 56, it is made highly penal to unlawfully, by force or fraud, take or entice away, or detain any child under fourteen years of age, with intent to deprive its parent of the possession thereof; by the same Act it is also made highly penal to take any unmarried girl, under the age of sixteen, out of the possession or against the will of her father or mother. The consent of a father to the marriage of a child under age is indispensable. As to property, the father may receive the rents of the child's real estate, subject to his giving a strict account on the child coming of age. This empire of the father only remains till the child is twenty-one or marries. A father, dying, may appoint a guardian to his infant children; after his death the widow is entitled to the custody of the children

until twenty-one; and where there is no other guardian she, while she remains unmarried, stand in the father's place, so that her consent is required to the marriage of one of the children during minority. She has no power, however, to appoint a guardian by will.

As to the duty of a child towards his parents, he is justified in defending their persons and in maintaining their suits or causes. Moreover, the children of every poor, old, blind, lame, and impotent person, or other poor person not able to work, shall, if of sufficient ability, at their own charges relieve and maintain every such person, in such manner as the justices in quarter sessions shall direct. An illegitimate child is entitled to be maintained by its parents. The mother is entitled to its custody (as it would seem) in preference to its putative father, and is bound to maintain it as part of her family while she remains unmarried, or until the child is sixteen or gains a settlement in its own right, or (being a female) marries. In the event of the mother's marriage, a similar liability attaches to her husband. If the mother be of sufficient ability to maintain the bastard while he is so dependent on her, and neglect her duty so that he becomes chargeable to a parish, she is liable, under 7 & 8 Vic. c. 101, sec. 6, to be punished under the Vagrant Act (5 Geo. IV. c. 83). If, on the other hand, the mother be not of sufficient ability, the father is compellable to contribute to its support. The proceedings in that respect take place before justices, who, if the woman's evidence be corroborated in some material particular by other testimony, may adjudge the man charged to be the putative father, and make an order on him for payment of a weekly sum towards the maintenance of the child. (See "Affiliation.")

Since Dec. 31, 1882, every married woman is liable (independently of her husband) for the maintenance of her own children, but not for those of her husband that are not also hers.

Pari Passu. On an equal footing.

Parish. The precinct of a parochial church, or a circuit of ground inhabited by people who belong to one church and are under the particular charge of its minister. According to Camden, England was divided into parishes by Archbishop Honorius, about the year 630. But Selden proves that the clergy lived in common, and without any division of parishes, long after that period. The distinction of parishes first occurs in the laws of Edgar about the year 970. "It seems pretty certain," says Blackstone, "that the boundaries of parishes

were first ascertained by those of a manor or manors; because it very seldom happens that a manor extends itself over more than one parish, although there are often many manors in one parish. As Christianity spread, the lords began to build churches on their demesnes or wastes, in order to accommodate their tenants in one or two adjoining lordships; and, that they might have divine service regularly performed therein, they obliged all their tenants to appropriate their tithes to the maintenance of the one officiating minister, instead of leaving them to distribute them among the clergy of the diocese in general. The tract of land, the tithes of which were thus appropriated, formed a distinct parish; a circumstance which accounts for the frequent intermixture of parishes one with another. For, if a lord had a parcel of land detached from the main portion of his estate, but not sufficient to form a parish of itself, it was natural for him to endow his newly-erected church with the tithes of such lands. Since 1818 important improvements have taken place in the parochial divisions of England through the appointment of "The Ecclesiastical Commissioners." Moreover, parishes have of late years been united together for poor-law purposes into unions, partly of their own voluntary action under Gilbert's Act (22 Geo. III. c. 23) and more recently by the action of the Poor Law Board under powers given for that purpose by the Poor Law Amendment Act, 1834. (See "Poor Laws.")

The principal officers in every parish are the parson or vicar, the churchwardens and overseers, the surveyor of highways and the parish-clerk and sexton.

An Act of 1882 (45 & 46 Vic. c. 58) provides that detached parts of parishes are thenceforth to form parts of parishes surrounding them; but if any such detached portion has a population exceeding three hundred, the inhabitants may have it constituted a distinct parish upon complying with prescribed formalities, providing one-tenth of the inhabitants are rated. The Act adjusts the foregoing circumstances to school-boards and local rating, and deals with overseers in some cases.

Parish Apprentices are those put apprentice by the guardians of the poor.

Parish-clerk. A person in every parish whose duty it is to assist the parson in the rites and ceremonies of the church. Parish-clerks were formerly clerks in orders, and their business at first was to officiate at the altar, for which they had a competent maintenance by offerings; but they are now generally

laymen, and are entitled to certain fees at christenings, marriages, and burials, besides wages for their maintenance. The parish-clerk is generally appointed by the incumbent, but by custom may be chosen by the inhabitants. By the common law, a parish-clerk has a freehold in his office, but may now (by statute 7 & 8 Vic. c. 59) be suspended by the archdeacon for misconduct or neglect.

Parish Register. See "Registration."

Parliament. The name of the supreme legislature of the United Kingdom of Great Britain and Ireland. It consists of the Sovereign—king or queen—the House of Lords, and the House of Commons.

The House of Lords. This House is composed of lords spiritual and lords temporal. The archbishops and bishops of England—with one or two exceptions—constitute the former, while the latter are the peers of England, the peers of Great Britain created since the union with Scotland, the peers of the United Kingdom created since the union with Ireland, and the representative peers of Scotland and Ireland.

The history of the House of Lords in England may be traced from the great councils of the early Norman kings, by whose advice and consent these kings acted, and whose concurrence they stated in promulgating the royal will. The great councils under the first Norman kings appear to have been constituted on feudal principles. One constituent branch was composed of the bishops and the heads of religious houses holding their temporalities immediately of the Crown. These spiritual lords all held baronies which, according to the analogy of lay peerages, were sufficient to give them a share in the legislature. But it seems probable that these superior ecclesiastics were invited to the councils not upon any feudal notions, but chiefly as representatives of the Church and religion—according to the general custom of Europe and by the common law of England, which the Conquest did not overturn. Next to the spiritual lords came the earls and barons or lay peerage of England. Every earl was also a baron, and held an honour or barony of the Crown. It is universally agreed that the only baronies known for two centuries after the Conquest were incident to the tenure of land immediately from the Crown; but there are great difficulties in rightly understanding the nature of baronies, some authorities holding that every tenant-in-chief by knight-service was an honorary or parliamentary baron by reason of his tenure, while others consider that tenure by knight-service in chief was

always distinct from that by barony. But there seems to be complete proof of their separation long before the reign of John. The Magna Charta of this king most clearly recognizes the distinction between those tenants-in-chief who were entitled to be summoned by particular writs to take part in the deliberations of the council, and those who could claim only a general summons directed to their sheriff—the greater and the lesser barons, as they have been termed. The epoch when the lesser barons were deprived of their right of attendance in parliament is again involved in uncertainty; it would appear, however, that from an early period in the reign of Henry III. the writ of summons (to which the greater barons alone were entitled) came to be regarded as the customary and regular preliminary of a baron's coming to parliament, and so, in course of time, as an indispensable condition. This was especially so at a time when the prerogative was high and the law unsettled, and when the attendance in parliament of the inferior tenants-in-chief grew extremely vexatious to themselves and was not well liked by the king, who knew them to be dependent on the greater barons and dreaded the confluence of a multitude who assumed the privilege of coming in arms to the appointed place. It was this that eventually divided parliament into two houses.

Passing over some writs in the reign of John and in the earlier part of the reign of Henry III., which seem to point to the principle of the representation in parliament of those tenants *in capite* (if not of all freeholders) who had lost the right (if they had ever possessed it) of taking part in the deliberations of the great council, we come to the year 1265, the 49th of Henry III., when that king was a captive in the hands of Simon de Montfort. The latter issued writs in the king's name to all the sheriffs, directing them to return two knights for the body of their county, with two citizens or burgesses for every city and borough contained within it. The innovation, however, thus introduced fell with the usurper; but in the next reign—that of Edward I.—the courage and persistency of Humphrey Bohun, earl of Hereford, and Roger Bigod, earl of Norfolk, won from that monarch the general *confirmation of the charters*, being a confirmation of the charters granted by himself and his two predecessors, with the addition of clauses (entitled the statute *de tallagio non concedendo*) the main effect of which was that “no *tallage* or aid shall henceforth be levied by us or our heirs without the good will and common assent of the archbishops, bishops, and other prelates, the earls, barons, knights, burgesses, and

other free men of the realm." The other clauses restrained the taking by the royal officers of corn, wool, or hides without the assent of the owner; abolished the tax known as the "evil toll," and generally confirmed the laws, liberties, and free customs of all classes. It is probable that the election of a knight of the shire—the name anciently applied to the modern county member—by all freeholders in the county court, without regard to the distinctions in their tenure, was from the earliest time little different to what it is at present, except in so far as the statute of 8 Henry VI. c. 7 and the Reform Acts of the present century have introduced modifications. It is the opinion of some writers that they were originally elected by the tenants *in capita* or in *capite* only. However that may be, the position of the tenants *in capite* who were not among the greater barons was from the time of Edward I. clearly determined, and from this reign tenure and summons were both essential in order to render any one a lord of parliament—the first by the ancient constitution of our feudal monarchy from the Conquest; the second by some regulation or usage of doubtful origin which was thoroughly established by the end of the reign of Henry III. For some few years after the granting of the *confirmatio chartarum* the knights of the shire belonged to the same branch of the legislature as the barons; but by the end of the next reign—that of Edward II.—the two houses were divided as they are at present.

But though the right of peerage was thus originally territorial, it has long since ceased to be so. When alienations became frequent, the dignity was confined to the lineage of the party ennobled, and instead of being territorial became personal. The dignity may now be created without connecting it nominally with any particular place. Peers are now created either by writ or patent.

The representation of towns in parliament was founded upon two principles: of consent to public burthens, and of advice in public measures, especially such as related to trade and shipping. Upon both these accounts it was natural for the king who first summoned them to parliament to make these assemblies numerous, and summon members from every town of consideration in the kingdom. Thus the writ of 23 Ed. I. directs the sheriff to cause deputies to be elected to a general council from every city, borough, and trading town. And although these last words are omitted in subsequent writs, yet their spirit was preserved; many towns having constantly returned members to parliament by regular summonses from the sheriffs, which were so chartered

boroughs, nor had apparently any other claim than their populousness or commerce. These are now called boroughs by prescription. The proper constituents of the citizens and burgesses in parliament appears then to have been : 1. All chartered boroughs, whether they derived their privileges from the Crown or from a mesne lord, as several in Cornwall did from Richard king of the Romans. 2. All towns which were the ancient or actual demesne of the Crown. 3. All considerable places, though unincorporated, which could defray the expenses of their representatives, and had a notable interest in the public welfare. But no parliament ever perfectly corresponded with this theory. The expense of paying their representatives caused many boroughs to look upon the power of sending representatives to parliament as a burden rather than a privilege, and the sheriffs exercised the discretion conceded to them in a very arbitrary fashion. Thus it has happened that many towns called boroughs, and having a charter and constitution as such, never returned members to parliament before 1832; some of which are now among the most considerable places in England.

By what persons the election of burgesses was usually made is a question of great obscurity. It appears to have been the common practice for a very few of the principal members of the corporation to make the election in the county court, and their names, as actual electors, are generally returned upon the writ by the sheriff. But we can hardly be warranted by this to infer that they acted in any other capacity than as deputies of the whole body, and indeed it is frequently expressed that they chose such and such persons by the assent of the community; by which word, in an ancient corporate borough, it seems natural to understand the freemen participating in its general franchises, rather than the ruling body, which in many instances at present, and always perhaps in the earliest age of corporations, derived its authority by delegation from the rest. The consent, however, of the inferior freemen we may easily believe to have been merely nominal, and from being nominal it would in many places come by degrees not to be required at all; the corporation, specially so denominated, or municipal government, requiring by length of usage an exclusive privilege in election of members of parliament as they did in local administration. In point of number, about two hundred citizens and burgesses sat in the parliament held by Edward I. in his 23rd year; but in the reigns of Edward III. and his three successors the number was about one hundred and eight, while the knights of the shire numbered seventy-four.

As before stated, from the beginning of Edward III.'s reign the knights of the shire sat in the same house with the citizens and burgesses, forming the House of Commons; but for more than a century the dignity of ancient lineage, territorial wealth, and military character, in times when the feudal spirit was hardly extinct, made the burghers veil their heads to the landed aristocracy. It is pretty manifest that the knights, though doubtless with some support from the representatives of towns, sustained the chief brunt of the battle against the Crown. The rule and intention of our old constitution was that each county, city, or borough should elect deputies out of its own body, resident among themselves and consequently acquainted with their wants and grievances. But from a very early period this rule appears to have been neglected, nor did a statute of 1 Henry V., passed, to enforce observance of the old law, have any effect in preventing it from falling into desuetude.

By the ancient statutes of the realm, the sovereign is bound to convoke a parliament every year, or oftener if *need be*. As these last words are loose, it was enacted by 16 Car. II. c. 1 that the sitting and holding of parliament shall not be intermitted above three years at the most; and by statute 1 Will. and Mary st. 2, c. 2, it was declared that parliaments should be held frequently; besides which it was provided by 6 Will. and M. c. 2, that a new parliament shall be called within three years after the determination of a former one. But the importance of these provisions is in modern times lessened by the course of public business, the exigencies of which now lead invariably to the assemblage of parliament once in every year.

Parliament, when it has once met, may be adjourned, prorogued, or dissolved. An *adjournment* is nothing more than a continuance of the session from one day to another, and this is done by the authority of each house separately every day. The adjournment of one house is no adjournment of the other. A *prorogation* is the continuance of parliament from one session to another, and is done by the royal authority. Both houses are necessarily prorogued at the same time. The session is never understood to be at an end until a prorogation. A *dissolution* is the civil death of the parliament, and may be effected in three ways: 1. By the sovereign's will, expressed either in person or by representation. 2. By demise of the Crown; and 3, by length of time. A dissolution formerly took place immediately on the death of the reigning sovereign; and that being found inconvenient, and dangers being apprehended from having

no parliament in being in case of a disputed succession, it was enacted by the statutes 7 & 8 Will. III. c. 15, 6 Anne c. 7, and 37 Geo. III. c. 127, that the parliament in being shall continue for six months after the demise of any king or queen, unless sooner prorogued or dissolved by his successor; that if the parliament be, at the time of the demise of the sovereign, separated by adjournment or prorogation, it shall notwithstanding assemble immediately; that in case of the demise of the sovereign between the dissolution of a parliament and the day appointed by the day of summons for the meeting of a new one, the last preceding parliament shall immediately convene for six months, unless sooner prorogued or dissolved by the successor; and that in the event of the sovereign's demise on or after the day appointed for assembling the new parliament, but before it has assembled, then the new parliament shall in like manner convene for six months, unless sooner prorogued or dissolved. As regards *dissolution by length of time*, before the passing of 6 Will. and M. c. 2 there was no limit to the duration of a parliament except the will of the sovereign; but by that Act, after the expiration of three years from the first summons, the parliament was to have no longer continuance. But by the Septennial Act (1 Geo. I. st. 1, c. 38) this period was extended to seven years, and has remained fixed at seven years ever since.

Method of Proceeding in Parliament. The method of proceeding is pretty much the same in both houses. Each house has its speaker, who in the House of Lords is the Lord Chancellor or Keeper of the Great Seal. To bring a bill into either house, if the relief sought by it is of a private nature, it is first necessary to prefer a petition, which must be presented by a member, and usually sets forth the grievance desired to be remedied. This petition (when founded on facts that may be disputed) is referred to a committee of members, who examine the matter alleged and report it accordingly to the House; and then (or otherwise upon the mere petition) leave is given or refused to bring in the bill. (See "Private Bill.") In public matters, a bill originating in the Commons is brought in upon motion made to that house for leave to bring it in, and there is no petition for that purpose. Formerly all bills were drawn in the form of petitions to the Crown, which were entered on the parliament rolls, with the king's answer thereunto subjoined, not in any settled form of words, but as the circumstances of the case required, and at the end of each parliament the judges drew them into the form of a

statute, which was entered on the statute rolls. In the reign of Henry VI., however, bills in the form of Acts, according to the modern custom, were first introduced. When leave is given to bring in a bill, the persons directed to bring it in present it in a competent time to the House, drawn out in proper form. The bill is then read a first time. At a convenient interval, the person who has charge of the bill moves that it be read a second time, and if that question is decided in the negative the bill must be dropped for that session, as it must also if opposed with success at any subsequent stage; if the question be decided in the affirmative, the bill is *committed*—that is, referred to a committee, which is either selected from the House or else the House resolves itself into a committee of the whole House. The bill is then debated clause by clause in committee, amendments are made, the blanks filled up, and sometimes the bill entirely new modelled. The chairman of the committee then reports the bill, with such amendments as may have been made in committee, to the House. The House then reconsiders the whole bill again, and the question is repeatedly put upon every clause and amendment. When the House has agreed or disagreed to the amendments of the committee and sometimes added new amendments of its own, the bill is then ordered to be reprinted, and it is then read a third time, and amendments are sometimes then made to it and new clauses added. The speaker then puts the question whether the bill shall pass. If this is answered in the affirmative, the bill is printed fair by the Queen's printer, and one of the members is directed to carry it to the Lords. The member thus deputed, attended by several more, carries it to the bar of the House of Peers, and there delivers it to their Speaker, who comes down from his woolsack to receive it.

It there passes through the same forms as in the other house, and if rejected no more notice is taken; but the matter passes *sub silentio*, to prevent unbecoming altercations. But if it is agreed to, the Lords send a message (which upon matters of high dignity or importance is conveyed by two of the judges) that they have agreed to the same; and the bill remains with the Lords if they have made no amendment to it. But if any amendments are made, such amendments are sent down with the bill to receive the concurrence of the Commons. If the Commons disagree to the amendments, a conference usually follows between members deputed from each house; who, for the most part, settle and adjust the difference; but if both houses remain inflexible the matter is dropped. If the Com-

mons agree to the amendments, the bill is sent back to the Lords by one of the members, with a message to acquaint them therewith. The same forms are observed, *mutatis mutandis*, when the bill begins in the House of Lords. And when both houses have done with any bill, it always is deposited in the House of Peers, to await the royal assent, except in the case of a bill of supply, which, after receiving the concurrence of the House of Lords, is sent back to the House of Commons.

From the time of Henry VI. it has been the almost invariable practice, and from the time of Edward IV. it has been the constant principle, that the king must admit or reject a bill that has thus passed through the two houses, without qualification. The royal assent may be given in person, or, by the statute 33 Hen. VIII. c. 21, the king may give his assent by letters patent under his great seal, signed with his hand, and notified in his absence to both houses assembled together in the House of Lords. When the bill has received the royal assent in either of these ways, it is then, and not before, a statute or Act of Parliament.

Great Parliamentary Officers. The principal officers of the House of Lords are the Lord Chancellor; the Clerk of the Parliaments, who takes minutes of the proceedings of the house; the Gentleman Usher of the Black Rod, who, with his deputy, the Yeoman Usher, is sent to desire the attendance of the Commons, executes orders for committal, and assists in various ceremonies; the Clerk-assistant; and the Serjeant-at-arms, who attends the Lord Chancellor with the mace, and executes the orders of the House for the attachment of delinquents. The chief officers of the House of Commons are the Speaker (see that title); the Chairman of the Committee of Ways and Means, who acts as speaker during the Speaker's absence; the Clerk of the House; the Serjeant-at-arms; the Clerk-assistant and the second Clerk-assistant.

Powers of Parliament. "The power and jurisdiction of Parliament," says Sir Edward Coke, "is so transcendent and absolute, that it cannot be confined, either for causes or persons, within any bounds." It hath sovereign and uncontrollable authority in the making, confirming, enlarging, restraining, abrogating, repealing, reviving and expounding of laws, concerning matters of all possible denominations, ecclesiastical or temporal, civil, military, maritime, or criminal: this being the place where that absolute despotic power, which must in all governments reside somewhere, is entrusted by the constitution of these kingdoms. All mischiefs and grievances, operations

and remedies, that transcend the ordinary course of the laws, are within the reach of this extraordinary tribunal. It can regulate or new model the succession to the Crown; as was done in the reign of Henry VIII. and William III. It can alter the established religion of the land; as was done in a variety of instances, in the reigns of Henry VIII. and his three children. It can change and create afresh even the constitution of the kingdom and of parliaments themselves; as was done by the Acts of Union and the several statutes for triennial and septennial elections. It can, in short, do everything which is not absolutely impossible. In thus speaking of the powers of parliament, it must be remembered that we speak of what may be done by the united will of the three recognized elements of legislation—the sovereign, the House of Lords, and the House of Commons—in parliament assembled. (See “Estates of the Realm.”)

The Laws and Customs relating to both Houses. The whole of the law and custom of parliament has its original from this one maxim, “that whatever matter arises concerning either House of Parliament ought to be examined, discussed, and adjudged in that house to which it relates and not elsewhere.” Hence, for instance, the Lords will not suffer the Commons to interfere in settling the election of a peer of Scotland, and the Commons will not allow the Lords to judge of the election of a burgess.

General Privileges of Parliament. The more notorious privileges of the members of either house are as follows: 1. Privilege of speech, as to which it is declared by 1 Will. and Mary, st. 2, c. 2, to be one of the liberties of the people “that the freedom of speech, and debates or proceedings in parliament ought not to be impeached or questioned in any court or place out of parliament.” And this freedom of speech is particularly demanded of the sovereign by the Speaker of the House of Commons at the opening of every new parliament. 2. Privilege of person. A peer has always been exempt from arrest in civil cases at all times. A member of the House of Commons is so exempt while the House is sitting, and also for such period before the first meeting and after the dissolution of a parliament, as may enable him conveniently to come from and return to any part of the kingdom. This immunity also continues for forty days after every prorogation and forty days before the next appointed meeting. The claim of privilege has been usually guarded, with an exception as to indictable crimes—or, as it has been frequently expressed, of treason, felony,

and breach of the peace. To this may be added, that the case of writing and publishing seditious libels has been resolved by both houses not to be entitled to privilege. Even in indictable cases, however, there belongs to both Houses of Parliament the right of receiving immediate information of the imprisonment or detention of any member, with the reason for which he is detained. These privileges, however, of immunity from civil process, which were confined to a personal immunity from arrest or imprisonment by 10 Geo. III. c. 50, have now become of less importance since the Act of 1870 in modification of imprisonment for debt. In addition to these privileges of speech and of person, the right of the two houses to a free publication of their own reports, papers, votes, and other proceedings, was asserted by the statute 3 & 4 Vic. c. 9.

The Laws and Customs relating to each House in particular. The Lords had the right to be attended, and constantly were, by the judges of the Courts of Queen's Bench and Common Pleas, and such of the Barons of the Exchequer as were serjeants-at-law, as likewise by serjeants-at-law—for their advice in point of law, and for the greater dignity of their proceedings. All this is now much modified. The Secretaries of State, with the attorney and solicitor-general, were also used to attend the House of Peers, and have to this day (together with the judges and other persons above mentioned) the regular writs of summons issued out at the beginning of every parliament, *ad tractandum et consilium impendendum*, though not *ad consentiendum*; but whenever of late years they have been members of the House of Commons, their attendance on the Lords has fallen into disuse. As to the privilege of voting by proxy and of entering a protest, see titles "Proxy" and "Protest" respectively.

The peculiar laws and customs of the House of Commons relate principally to the originating of money bills and such as affect the public income and expenditure. So strictly is this right guarded, that the Lords cannot even make an alteration in a bill of supply except to amend a clerical error. The Lords are not even entitled to insert in a bill any pecuniary penalties, or to alter the amount or application of any penalty imposed by the Commons. But though the Commons have the exclusive right to grant supplies, a grant requires the ultimate assent of the House of Lords and the Crown. The House of Commons has further the right of impeaching offenders, in which case they are the accusers and the Lords the judges.

Parliament, Member of. This name, though applicable

also to a peer of parliament, is generally applied only to a member of the House of Commons.

Who may not be a Member of Parliament. First, it is provided by the law and custom of parliament that no one shall sit and vote in either house unless he be twenty-one years of age. This is also expressly declared by 7 & 8 Will. III. c. 25, with regard to the House of Commons. Aliens, unless naturalized, were likewise by the law of parliament incapable to serve therein; and it is also enacted by statute 12 & 13 Will. III. c. 2 that no person born out of the United Kingdom, or the dominions thereunto belonging, even though he be naturalized or made a denizen (except such as are born of English parents), shall be capable of being a member of either House of Parliament. Beyond these standing incapacities, if any person is made a peer by the Crown, or elected to serve in the House of Commons by the people, yet may the respective houses, upon complaint of any crime in such person and proof thereof, adjudge him disabled and incapable to sit in parliament.

The incapacities just mentioned are bars to eligibility for either House of Parliament. The following classes of persons are incapable of being elected to serve in the House of Commons:—

1. Peers of parliament and peers of Scotland. An Irish peer is not ineligible unless he shall previously have been elected to sit as one of the twenty-eight representative peers for Ireland.

2. Her Majesty's judges. Judges of session or justiciary, or barons of the exchequer in Scotland. Judges and other officers in bankruptcy court. County-court judges. Her Majesty's judges in Ireland. Recorders, for the borough for which they act; revising barristers the same. Police magistrates; commissioners of police and registrars of deeds.

3. The clergy of the Church of England and ministers of the Scottish church are ineligible. All doubt was set at rest on this point by 41 Geo. III. c. 68. By the Catholic Emancipation Act Roman Catholic priests are also expressly ineligible. Dissenting ministers, however, being in point of law mere laymen, are not ineligible. By the "Clerical Disabilities Act, 1870," however, a clergyman of the Church of England may relinquish his orders, and six months after doing so he is freed from this and other disabilities under which he laboured.

4. Sheriffs of counties, and mayors and bailiffs of boroughs, may not be returned within their respective jurisdictions. It is a general principle of law in all elections that no returning officer may return himself.

5. Ambassadors and persons in their service.

6. By the Act of Settlement (12 & 13 Will. III. c. 2, sec. 3) it was provided that no person holding any office or place of profit under the king, or receiving a pension from the Crown during pleasure, should be capable of serving in the House of Commons. This Act, however, as it would have prevented the ministers of the Crown from sitting in the House of Commons, was, before it came into operation, amended by the statute 4 Anne (1706), by which it was provided that no member of the Lower House, holding any office or place of profit under the Crown which had been created since October 25th, 1705, or which should thereafter be created, and no person having any pension from the Crown during pleasure, should be capable of being elected or of sitting and voting as a member of the House of Commons. Moreover, that if any member of the House of Commons should accept any office of profit under the Crown, although it might be one which a member of the House might lawfully hold under the above enactment, his election should be void, and a writ should issue for a new election. Provided, nevertheless, that such person should be capable of being re-elected.

But by the Reform Act of 1867 (sec. 52) it was provided, that where a person has been returned to serve as a member of the House of Commons since the acceptance by him from the Crown of one of the offices specified below, the subsequent acceptance by him of any of the said offices in lieu of and in immediate succession the one to the other, shall not vacate his seat. The offices in question are those of—

1. Lord High Treasurer.
2. Commissioners for executing the offices of Treasurer of the Exchequer of Great Britain and Lord High Treasurer of Ireland.
3. President of the Privy Council.
4. Vice-President of the Committee of Council for Education.
5. Comptroller of Her Majesty's Household.
6. Treasurer of the same.
7. Vice-Chamberlain of the same.
8. Equerry or Groom-in-waiting on Her Majesty.
9. Any principal Secretary of State.
10. Chancellor and Under-Treasurer of Her Majesty's Exchequer.
11. Paymaster-General.
12. Postmaster-General.
13. Lord High Admiral.

14. Commissioner for executing the office of Lord High Admiral.
15. Commissioner of Her Majesty's Works and Public Buildings.
16. President of the Committee of Privy Council for Trade and Plantations.
17. Chief Secretary for Ireland.
18. Commissioner for administering the Laws for the Relief of the Poor in England.
19. Chancellor of the Duchy of Lancaster.
20. Judge Advocate General.
21. Attorney-General for England.
22. Solicitor-General for England.
23. Lord Advocate for Scotland.
24. Solicitor-General for Scotland.
25. Attorney-General for Ireland.
26. Solicitor-General for Ireland.
7. Governors of colonies are ineligible.
8. Government contractors.
9. By common law, a person is disqualified for corrupt practices at his election, and the statutes passed on this subject, culminating in the Act of 1883, only give fuller effect to the common law. (See also "Corrupt Practices.")

By the Parliamentary Elections Act of 1868 (sec. 43), if it is proved by the report of a judge upon an election petition that bribery has been committed by or with the knowledge and consent of any candidate at an election, such candidate shall not only have his election (if he has been elected) declared void, but he shall be incapable of being elected to or sitting in parliament during the seven years next after the date of his being found guilty. Moreover, by sec. 46 of the same Act, if a member has been unseated for bribery by his agents, without being found guilty of personal bribery, he is incapable of being elected or sitting for such county, city, or borough, during the parliament then in existence.

Duty of a Member of the House of Commons. When a member is once duly elected and has taken the oaths, he is compellable to discharge the duties of his trust, and is bound to be present at every call of the House, unless he can give sufficient excuse for his non-attendance. Nor is he enabled by law to resign his seat. The only way of relinquishing it is to obtain some office, the acceptance of which will make the seat void. It has now for a long time been usual for the Crown to grant to any member

wishing to vacate his seat the stewardship of the Chiltern Hundreds, which, though merely a nominal office, is considered sufficient to vacate his seat.

Until recently, a man was ineligible to be elected to serve for a county unless he had an income of £600 a year; or for a borough unless he had an income of £300 a year. But this restriction was abolished by 21 & 22 Vic. c. 26.

Parliament, The Good. The name given to a parliament which met in 1376, and which, supported by the influence of Edward the Black Prince, coupled with the grant of supply a strong remonstrance against the abuses which the king (Edward III.) had allowed to creep into the administration.

Parliament, The High Court of. The supreme court of the kingdom, not only for the making but also for the execution of laws, by the trial of great offenders, whether lords or commoners, in the method of parliamentary impeachment. The lords usually, in the case of an impeachment of a peer for treason, address the Crown for the appointment of a Lord High Steward, for the greater dignity and regularity of the proceedings. It has, however, in modern times been strenuously maintained that the appointment of a Lord High Steward in such cases is not absolutely necessary, but the House may proceed without one.

Parliament, The Long. The fifth parliament of Charles I. It met on Nov. 3, 1640. The elections had run strongly in favour of the popular party, and the House of Commons, immediately on its assembly, began a searching inquiry into the administration of the last eleven years. One of their first acts was the impeachment of Strafford; they also took immediate steps against the bishops, and passed bills to prohibit clergymen from exercising any civil office. They likewise passed a bill, to which the king gave his assent, that parliament should not be dissolved, prorogued, or adjourned without their own consent. A bill was also passed abolishing the courts of star-chamber and high commission. Afterwards, to vindicate their own conduct, they framed a general remonstrance on the state of the nation. In this they recounted all the unjust, illegal, and tyrannical measures of which Charles had been guilty from the beginning of his reign. The civil war which afterwards broke out was carried on against the king by the popular party in this parliament. At length, in 1647, the leaders of the army completely subdued the parliament; and the chief government of the country fell into the hands of Cromwell and his officers. In 1648 Colonel Pride surrounded the parliament with two

regiments, and seized fifty-two members of the Presbyterian party, and expelled them from the House of Commons. About 160 members more were excluded, and none were allowed to enter the House but the most determined of the Independents, and these exceeded not the number of fifty or sixty. This invasion of the parliament passed under the name of "Pride's Purge." The remains of the parliament (commonly called "The Rump") reversed the recent Acts of their predecessors, and put several of the Presbyterian leaders in prison. In 1653, after the execution of Charles I., Cromwell expelled the remaining members of the House, and called a fresh parliament, which went by the name of "Barebones Parliament," or "The Little Parliament." In 1659, after Cromwell's death and the resignation of his son Richard, the council of officers who gained the supreme authority restored the Long Parliament, whose numbers did not then exceed seventy members. Shortly afterwards they were again expelled by Lambert and his officers. A couple of months after this event, Lenthall, the speaker, being invited by the officers, again assumed authority and summoned together the parliament, which twice before had been expelled. At the beginning of the next year (1660), at the instigation of Monk, the parliament finally dissolved themselves and issued writs for the immediate assembling of a new parliament. This was the last act of the Long Parliament, which had thus existed off and on for twenty years.

Parliament, The Mad. The name given to a parliament which in 1258 met at Oxford. All the barons brought with them their military vassals, so that Henry III., who had taken no precautions against them, was really a prisoner in their hands, and obliged to submit to the terms which they imposed upon him.

Parliamentary Agents are those who act as such in opposition or promotion of private bills. They are generally solicitors. No one can be a parliamentary agent until he subscribes a declaration that he will observe the rules of the House. Members or officers of parliament are prohibited from acting as such agents.

Parol is anything verbally agreed to or stated; hence the expression "parol agreement" is an agreement actually entered into but not committed to writing. In some cases such an agreement is binding—in some not.

Parol Evidence is that given orally, as distinguished from that by affidavit.

Parricide is the killing of a father by his own child.

Parson. A parson (*persona ecclesiae*) is the legal name applied to one who has full possession of all the rights of a parochial church. He is called parson because by his *person* the Church, which is an invisible body, is represented; and he is in himself a corporation sole, holding the emoluments of his benefice to him and his successors, in order that he may defend the rights of the Church by a perpetual succession. He is sometimes called the rector or governor of the church; but the appellation of parson (however it may be depreciated by familiar and indiscriminate use) is the most honourable that a parish priest can enjoy. A parson has during his life the freehold in himself of the church, the churchyard, the parsonage-house, the glebe, the tithes, and other dues. He is bound to keep the chancel of the church in repair at his own charges. The distinction between a parson and a vicar is this: the parson has for the most part the whole right to all the ecclesiastical dues in his parish; but a vicar has generally an appropriator over him, entitled to the best part of his profits, to whom he is in effect perpetual curate with a standing salary. In such a case the appropriators and their successors are perpetual *parsons* of the church, and must sue and be sued in all matters concerning the rights of the church by the name of parson. (See also sub-title "Vicar.") The method of becoming parson or vicar is much the same. To both there are four requisites necessary: *holy orders*; *presentation*; *institution*; *induction*. A clerk is *presented* by the patron of the living; if no valid objection can be made to him the bishop *institutes* him, whereby the clerk is invested with the spiritual part of the benefice. When the bishop is also the patron, the presentation and institution are one and the same act, and are called a collation to a benefice. *Induction* is performed by a mandate from the bishop to the archdeacon, who usually issues out a precept to other clergymen to perform it for him. It is done by giving the clerk corporal possession of the church, as by holding the ring of the door, tolling the bell, and the like. It is a form required by law, so as to give all parishioners due notice and sufficient certainty of their new minister, to whom the tithes are to be paid. This, therefore, is the investiture of the temporal part of the benefice, as institution is of the spiritual. The principal duty of a parson or vicar is residence in the parish at any rate, in the parsonage-house if there be one. This is enforced by 1 & 2 Vic. c. 106. By the same statute it is provided that two benefices cannot in general be held by the same person,

unless they be within three miles of each other, and the value of one do not exceed £100 a year; nor if the population of one exceeds 3,000, and of the other 500 persons.

Passenger Duty. See "Railway."

Passport. Within the United Kingdom no passports are required; but they are still necessary to British subjects when travelling in various continental countries. Of late years the passport most used by British subjects is that of the British Secretary of State for Foreign Affairs, which is now granted to any British subject on application of a banking company in the United Kingdom; or on the recommendation of the chief magistrate of any corporate town in the United Kingdom; or of any justice of the peace, physician, surgeon, solicitor, notary, or minister of religion, who shall certify that the applicant is the person he professes to be. A Foreign Office passport must in general be countersigned by the minister or consul of each country which the holder intends to visit, in order to make it available in that country.

Part Owner, in general, means one who is entitled to a share of any property; but it is most extensively used with reference to ships owned by various persons.

Partial Loss, in marine insurance, is equivalent to average loss.

Particeps Criminis. An accomplice in a crime; broadly applied to participators in all kinds of offences or wrongs.

Particular Average is a kind of average loss in marine insurance.

Particular Lien, otherwise Specific Lien. See "Lien."

Particulars of Sale attached to an announcement of an auction of land are binding upon the purchaser unless there be some evidence to the contrary, or they are unreasonable from a legal point of view.

Parties. This expression arises from the usual form of a deed, reciting the name or names of the person or persons concerned in the first degree or first part, and of the second part, and third part, and so on.

Partition. In legal phrase this occurs when the joint tenant or tenant in common of an estate desires to sever his interest from that of the other tenant or tenants. In cases of dispute, it is expressly provided for by the Partition Act, 1868 (81 & 82 Vic. c. 40).

Partnership, strictly so called, is an association of two or more persons who are not incorporated by law into a company,

but who are jointly and severally empowered and responsible with reference to some business. Every partnership is "private," as distinguished from an incorporated company, which may be said to be public.

Illegal Partnerships. A trading partnership of more than twenty persons is illegal, and so is a banking partnership of more than ten persons.

Associations that are not Partnerships. A community of interests does not necessarily constitute a partnership. Such is a committee, a club, a combination to effect joint purchases such as a pipe of wine for distribution *pro rata* amongst certain subscribers, providing there be no trade profit, and one may be allowed to receive payment for his trouble, or two or more may, without committing any of the party to the responsibilities of partnership.

Profits in lieu of Interest or Wages. If a person lends money to a trader, and others work for him, and they or any of them agree to take a share of such profits as accrue in lieu of interest or wages (or partly so), or to take nothing if there be no profits, there is no partnership. This was formerly a doubtful point, but the Partnership Amendment Act, 1865, has effectually removed all doubt, and has absolved all such persons from the liabilities of partnership, providing there be no evidence of intention to constitute a partnership.

Spontaneous Partnerships. Though in all the previously mentioned cases a partnership does not necessarily arise, yet it may if other circumstances are permitted to operate; for, no matter what may be the private arrangement between two persons in association, if one does anything whereby he appears to a third person to be a partner, he becomes liable to such third person in case of the non-payment of a debt of the firm; so that several parties trading or working together may drift into a partnership without any intention on their part, and even contrary to the intention of every one of them, for the law takes little cognizance of secret compacts in this matter. What it takes account of is the impression made upon persons who are induced to give credit, and any *bonâ-fide* appearance of liability creates a liability in this respect.

Sleeping Partners—that is, those who secretly invest money in trade—are completely protected from the liabilities of partnership if they avail themselves of the Act of 1865 (previously referred to), and strictly adhere to its provisions; but if they exercise the authority of partners, and put themselves forward in

such a way as to lead to a reasonable conclusion that they are partners, their original arrangement under the letter of the Act will be spontaneously set aside, and will not avail them in case of liability arising.

Partnerships under Deed. There are so many ways in which fatal disputes may arise between partners, that it is scarcely ever safe to allow a partnership to go on without a deed which will define what the rights of the respective partners are. To the power of such a deed there is scarcely any limit. It can effectually concentrate upon one or more of several partners all the management, to the exclusion of all the rest from participation in authority. In like manner it can apportion profits equally or unequally to any extent and in any variety of arrangement. More especially is a deed important to determine what is to result upon the death of a partner or partners, and how a dissolution is to be effected should the association of the partners become intolerable. In the absence of a deed in anticipation of such contingencies, the difficulties arising from death or desire for dissolution may be ruinous to the soundest business.

Unlimited Liability. Bearing in mind what does not constitute a partnership as before described, every partnership, legally constituted as such, as between the firm and the public, involves unlimited liability for every partner. Limitation of such liability is impossible. There must either be no liability, or, if any, there are no bounds to the amount to which it may involve any and every partner, each one being liable for every act of every other partner. Whether he knows what is going on or not, whether he takes part in the business or not, whether he is absent or not, makes no sort of difference. He is individually liable for every debt and obligation the firm may incur, and any creditor is at liberty to recover from one partner alone as though the other or others had never lived, without regard to the amount which the partner may have actually invested in the business.

Party-Wall is a general term applying to buildings so built adjoining each other as that some portion equally belongs to both. Rules as to whose duty it is to build a party-wall, and where, are provided for the metropolis chiefly by the Metropolitan Building Act (18 & 19 Vic. c. 122); for provincial towns by the Towns Improvement Clauses Act of 1847 (10 & 11 Vic. c. 34), with some supplementary and scattered provisions.

Pasch. Easter Term.

Pasnage. See "Pannage."

Passator is one who has property in the navigation of a river.

Passive Trust implies that the trustee has nothing to do.

Patents. These are newly provided for by the Patents, Designs, and Trade Marks Act, 1883. The Lords of the Treasury are empowered and required to provide all requisite buildings and conveniences, to be called the Patent Office, to be conducted by the newly appointed Comptroller-General of Patents, who is under the superintendence and direction of the Board of Trade. Subject to current office fees, provided for but not specified in the Act, and to the patent fees hereafter described, any person, or any number of persons jointly, may apply to the Patent Office for a patent. The application must declare the applicant or applicants to be the true and first inventor or inventors, and must be accompanied by either a provisional or complete specification. Every specification must be submitted by the comptroller to an official examiner, who may require amendments to be made in the description of the patent, subject to appeal by the applicant to the law officer. If two specifications appear to be identical, the applicants are entitled to notice of the identity, and the comptroller may refuse to entertain the second application. If the original specification is only provisional, the applicant has nine months' grace wherein to make it complete; and if it is not so completed the application is deemed to be abandoned; and if the complete specification is not accepted by the comptroller within twelve months after the date of application the application is void. Reports of examiners must not be published or submitted to inspection only when the interests of justice are deemed to demand production in court. When the complete specification is accepted, the comptroller must advertise it, and all particulars except the reports are then open to public inspection. Any time within two months after the advertising of the specification any person is entitled to give notice of opposition: on the ground that the opposer is the true inventor or his representative; or that the invention has already been patented; or that the specification is identical with a prior one. No other ground of opposition is admissible. When the said two months have expired without notice of opposition, or where the opposition has been disposed of in favour of the applicant, the patent must be sealed, and such sealing must be effected within fifteen months after date of application unless delayed by opposition or appeal. The patent so sealed dates back to the day of the application, and may be published and

used as such by the applicant any time after the application without prejudice, but an action will not lie for infringement until the sealing is effected. When a patent has been sealed, it will not prevent the sealing of an identical one applied for earlier but overlooked by the examiners. In that event, or any other, an applicant or a patentee may, from time to time, obtain leave to amend his specification if he can show grounds for doing so.

The foregoing requisites being complied with, there is secured what is called provisional protection, at an expense of £1 on application and £3 additional on filing complete specification, or the £4 may be paid with complete specification at the time of making the application. The provisional protection lasts for four years from the date of the application. In order to keep the patent alive beyond that time, there must be paid the following annual fees before the end of each year respectively :—

4th year	..	...	£10	9th year	..	...	£15
5th	„	...	10	10th	„	...	20
6th	„	...	10	11th	„	...	20
7th	„	...	10	12th	„	...	20
8th	„	...	15	13th	„	...	20

The patentee has the option of paying, instead of the above, £50 before the end of the fourth year and £100 more before the end of the seventh year if it be a patent under the previous Act, or the eighth year if it be under the Act of 1883. The only advantage of so paying appears to be when the patentee or subsequent holder wishes to induce a purchaser on the ground that the continuance of the patent is guaranteed.

Fourteen years is the limit of the continuance of an ordinary patent, subject to the fees before mentioned, the omission of any one of which being generally fatal. But, in exceptional cases of rare occurrence, the time of payment may be deferred for three months; and in very rare cases, upon extremely exceptional grounds, the term of a patent may be extended beyond fourteen years upon petition to the Queen in Council.

Revocation of a patent may result from a petition presented to the Patent Office by the Attorney-General or his deputy, or by any person interested. The ground of revocation must be that the patent was procured by fraud; or that the petitioner is the true inventor or his representative; or that the article patented had prior to the date of the patent been publicly manufactured,

used, or sold in this country. Infringement cannot be recovered upon if the grounds for revocation can be proved. Threats of proceedings for infringement, when without just grounds, can be stopped by injunction.

Compulsory licences to work a patent may be enforced in favour of any person who can prove that the patent is not being worked efficiently by the patentee, and that he refuses to grant licences on reasonable terms.

The Act provides for a registry of patents; conditions of legal proceedings; the protection of patents existing prior to the Act; miscellaneous contingencies; and forms for applications, specifications, and patents.

Using the word "patent" or "patented" when a patent has not been granted, involves a penalty of £5 for every offence.

Patrimony is an hereditary estate.

Patron. He who has the right of presentation to a benefice in the Church of England.

Pauper. The name applied to any person who is receiving relief from the poor-rate. (See "Poor-laws" and "Settlement.")

Casual Paupers. An Act of 1882 (45 & 46 Vic. c. 36) makes new provisions with reference to casual paupers, who hence are not at liberty to discharge themselves until nine in the morning of the second day following their admission, nor before the work prescribed is done; and if any such casual pauper be a second or subsequent time within one month in the same casual ward, then not till nine o'clock in the morning of the fourth day after admission. Sunday is made an extra day of detention. The Act also prescribes new punishments for obtaining parochial relief under false pretences.

Pauperis, In Forma. See "In Forma Pauperis."

Pawnbroker. An Act was passed in 1872 for the amendment and consolidation of the law relating to pawnbrokers. A pawnbroker has to pay a yearly excise licence of £7 10s. for every shop kept by him. His licence is forfeited if he is convicted of an offence under the Act. A licence is not to be granted except on a certificate granted by the justices. A certificate is not to be refused except on one of the following grounds: That the applicant has failed to produce satisfactory evidence of good character; that the shop in which he intends to carry on his business, or any adjacent place owned or occupied by him, is frequented by thieves or persons of bad character; or that he has not complied with certain preliminary formalities required by the Act. A pawnbroker must keep and

use in his business proper books and documents as required by the Act, and enter therein the particulars indicated in the schedule to the Act. He must keep exhibited outside his shop his name, with the word "pawnbroker," and he must always keep placed in a conspicuous part of his shop a table of the rate of interest which he is entitled to charge. A neglect to comply with these requisitions is an offence under the Act. A pawnbroker on taking a pledge in pawn shall give a pawn-ticket, and shall not take the pledge in pawn unless the pawner takes the ticket. He shall not take any profit beyond the legal profit, which is: For a loan of 10s. or under—for the ticket, one halfpenny; for profit on each 2s. or part of 2s. lent on this pledge for not more than one calendar month, one halfpenny, and so on at the same rate per calendar month. For loan above 10s. and not above 40s. he is entitled to charge for the ticket one penny, and one halfpenny for profit in each 2s. per month. For loan above 40s. he is entitled to charge for the ticket one penny, and for every 2s. 6d. one halfpenny per month. Every pledge is redeemable within one year and seven days of the time of pawning. A pledge pawned for 10s. or under, if not redeemed within that time, becomes the pawnbroker's absolute property. A pledge pawned for above 10s. remains redeemable until actually sold. A pledge pawned for above 10s. shall, when disposed of by the pawnbroker, be disposed of by sale by public auction, and not otherwise. A pawnbroker may bid and purchase at such sale a pledge pawned with him, and on such purchase he shall be deemed the absolute owner of the pledge purchased. If any such pledge be sold for more than it was pawned for, the pawner is entitled to such surplus after deducting the legal profits and the expenses of the sale; but if the pawnbroker has had more than one article from one person, and has lost on one and gained on the other, he is entitled to set off his loss against his gain. A pawnbroker is bound to keep a book showing the price at which each such pledge sold, and the surplus above mentioned, if any, must be claimed within three years. Neglect to comply with these requirements is an offence under the Act. With regard to articles offered for pledge above 40s. the pawnbroker may make a special contract. The holder of the pawn-ticket is entitled to redeem within the time limited. The pawnbroker is not bound to deliver back a pledge unless the ticket is delivered to him; but provision is made for the protection of persons who have lost their ticket. Various restrictions are placed on pawnbrokers: they may not take an

article in pawn from any person appearing to be intoxicated or under 12 years of age; they may not purchase or take in pawn or exchange a pawn-ticket issued by another pawnbroker; or employ any servant under 16 years of age to take articles in pawn; or purchase goods pawned with them except at public auction; or suffer any pledge while in pawn with them to be redeemed with a view to their purchasing it; or make any contract or agreement with any person pawning or offering to pawn any article for the purchase, sale, or disposition thereof within the time of redemption. Any person unlawfully pawning goods not his own and without the authority of the owner is subject to a penalty not exceeding £5. Pawnbrokers are not to take in pawn linen, clothing, unfinished goods or materials. Offences against the Act by pawnbrokers are punishable with a fine not exceeding £10.

Payee is the person to whom the amount due upon a bill or note is payable.

Paymaster-General is an officer of the British Ministry, but not of the Cabinet, charged with superintending the issue of all moneys voted by parliament. He is always either a peer or a member of the House of Commons, and of course changes with the ministry. Of late years the office has generally been held in conjunction with that of Vice-President of the Board of Trade.

Payment into Court is the deposit by a defendant of as much as he admits he is indebted, as distinguished from the higher amount claimed by the plaintiff. If the amount paid in eventually proves enough, the effect is to charge the plaintiff with the costs subsequent to such paying in; but in this respect the discretion of judges is now unlimited.

Peace, Clerk of the. An officer who acts as clerk to the Court of Quarter Sessions, and records all their proceedings. He is appointed by the Lord Lieutenant. He is usually, if not always, an attorney. His duties, besides that of officiating at the quarter sessions, are to prepare indictments, to record the proceedings of the justices, and to perform a number of special duties in connection with the affairs of the county.

Peace and War. The power of declaring war or making peace is one of the prerogatives of the Crown. (See "Prerogative.")

Peculiars, Court of. This court is a branch of, and annexed to, the Court of Arches. (See sub-title "Arches, Court of.")

Pedlars. An Act of 1881 (44 & 45 Vic. c. 45) removes the necessity previously prescribed for endorsement of the certificate of a pedlar whenever he trades out of the district to which his certificate originally refers. The effect is to render a pedlar's certificate of license available anywhere.

Peerage. The name applied to the status of the Lord's of Parliament. The law of this country takes no notice of gentlemen or of any other division of society beyond that of peers (or nobles) and commoners. Thus the sons of peers, though in certain cases they may bear an honorary title as marquis or lord, are in point of law nothing better than commoners. There are different ranks in the peerage, *viz.*, *duke*, *marquis*, *earl*, *viscount*, and *baron*. These are called the temporal lords. The archbishops of Canterbury and York, the bishops of London, Durham, and Winchester, and of twenty-one other places, also enjoy the dignity of the peerage. Besides the peers who sit in parliament in their own right, there are the sixteen Scotch peers and the twenty-eight Irish peers—the former elected for one parliament only and the latter for life—who, by the terms of the Acts of Union with Scotland and Ireland respectively, are elected by the peers of Scotland and Ireland to represent them in the parliament of the United Kingdom. Beyond the privilege of having a voice in the election of these representatives, and the fact that they are eligible to be chosen as such representatives, the Scotch and Irish peers have not (except in so far as is mentioned at the end of this article) any distinctive privileges. The right of peerage seems to have been originally territorial; that is, annexed to lands, honours, castles, manors, and the like; the proprietors and possessors of which were, in right of those estates, allowed to be peers of the realm, and were summoned to parliament to do suit and service to their sovereign. And when the land was alienated, the dignity passed with it as appendant. Thus the bishops still sit in the House of Lords in right of succession to certain ancient baronies annexed or supposed to be annexed to their episcopal lands; and thus in the eleventh year of Henry VI. the possession of the castle of Arundel was adjudged to confer an earldom by *tenure* on its possessor; of which mode of title to a peerage there are several other examples on record. But afterwards, when alienations grew to be frequent, the dignity of peerage was confined to the lineage of the party ennobled, and instead of territorial became personal. Actual proof of a tenure by barony became no longer necessary to constitute a lord of parliament, and the

alienation of the territorial possessions of a peer had no longer, except in rare cases, the effect of transferring the peerage itself. The dignity may now be created without even connecting it nominally with any particular locality; though it has remained usual in creating a peer to name him baron, earl, or the like, of some specified place. Peers are now created either by writ or by patent; for those who claim by prescription must suppose either a writ or patent made to their ancestors, though by length of time it is lost. The creation by writ, or the king's letter, is a summons to attend the House of Peers by the style and title of that barony which the king is pleased to confer: that by patent is a royal grant to a subject of any dignity and degree of peerage. The creation by writ is the more ancient way; but a man is not ennobled thereby unless he actually take his seat in the House of Lords, and some are of opinion that there must be at least two writs of summons and a sitting in two distinct parliaments to evidence an hereditary barony. And, therefore, the most usual, because the surest, way is to grant the dignity by patent, which enures to a man according to the limitations thereof, though he never himself make use of it. Yet it is a not uncommon practice to call up the eldest son of a peer to the House of Lords, by a writ of summons, in the name of his father's barony; because in that case there is no danger of his children's losing the nobility in case he never takes his seat; for they will succeed to their grandfather. Creation by writ has also one advantage over that by patent; for a person created by writ holds the dignity to him and the heirs general—that is, male and female of his body, without any words to that purport in the writ. But in letters patent there must be words to direct the inheritance, else the dignity enures only to the grantee for life. For a man or woman may be created noble for their own lives and the dignity not descend to their heirs at all. Letters patent, conferring the dignity of baron for life, do not enable the grantee to sit and vote in parliament; nor will such letters patent, with the usual writ of summons to the House. That was resolved by the committee for privileges in Lord Wensleydale's case, Feb. 22, 1856. A peerage, however, is usually conferred by the letters patent on the grantee and the heirs male of his body; though it may be on the grantee and the heirs female of his body, or on him and the heirs general of his body. Or it may be made to descend to some particular heirs; it may also be limited to the grantee and his heirs collateral as well as lineal. The right of primo

geniture takes place between males in the descent of dignities ; but it is otherwise as to females. For if a man holds a peerage to him and the heirs of his body, and dies, leaving only daughters, the dignity is in suspense or abeyance, and the sovereign may bestow it on which of the daughters he places.

A peer, besides enjoying the right to sit in the Upper House of Parliament and to be considered as one of the hereditary counsellors of the Crown, has various important privileges. In cases of treason and other felony, a peer has the right to be tried by his peers in the court of the Lord High Steward. In mere misdemeanours, however, this rule is not observed, and a peer is tried (like a commoner) by a jury. If a woman, noble in her own right, marries a commoner she still remains noble, and shall be tried by her peers ; but she communicates no rank to her husband. If she be only noble by marriage, then by a second marriage with a commoner she loses her dignity, though by courtesy or the usage of society she is ordinarily addressed by her former title. A peer or peeress (either in her own right or by marriage) cannot be arrested or outlawed in civil cases ; but they have no exemption in either of these particulars in cases of treason, felony, or actual breach of the peace. Peers have also privileges in the course of judicial proceedings. A peer gives his verdict, not upon oath, but on his honour ; he answers also to bills in chancery upon his honour and not upon oath ; but when he is examined as a witness in civil or criminal proceedings he must be sworn. The privileges of the peerage here mentioned belong, since the Scottish and Irish Unions, to all peers of Scotland and Ireland ; with the exception only of such Irish peers as are members of the House of Commons. A peer cannot surrender his dignity, nor can he lose it except by death or attainder. It is illegal for a peer to vote or take any other part in the election of members to serve in the House of Commons.

Penal Actions are for the recovery or enforcement of penalties.

Penal Servitude. The most severe punishment, short of death, that is now inflicted. It ranges in duration from a period of five years to the life of the convict. It was substituted for transportation by 16 & 17 Vic. c. 99, and 20 & 21 Vic. c. 8.

Penal Sum is an amount of forfeiture provided in a deed in certain events expressed.

Pendente Lite is until an action is decided.

Pensions. The Pensions Commutation Act, 1871, makes ,

original provision for the commutation of pensions of Government servants, and an Act of 1882 (45 & 46 Vic. c. 44) supplements the original provisions by permitting the commutation of part of a pension.

Peppercorn Rent is a material acknowledgment of a tenancy that is really rent free. In ancient times, the delivery and acceptance of a peppercorn or other symbol was a security to the tenant as well as a personal acknowledgment of the landlord's supremacy; but in modern times the custom of making such leases is more honoured in the breach than in the observance.

Per Auter Vie. For the life of another.

Per Capita. See "Capita."

Per Procuracionem (Per. Pro., or P.P.) signifies that a person signing does so by authority of the person or firm whose name is signed. Such a signature constitutes an agency unless the contrary be proved.

Per Quod, by reason of which.

Per Quod Consortium Amisit implies that a person has injured a wife so as to have deprived her husband of the advantage of her assistance and society.

Per Quod Servitium Amisit is when a female servant is seduced and so rendered unfit for service.

Per Sc, under any circumstances.

Per Stirpes. See "Stirpes."

Peremptory is legally defined as a final and determinate act or appointment, without hope of recall or alteration.

Performances of a dangerous character are restricted by an Act of 1879 (42 & 43 Vic. c. 34), which prohibits the employment of children under fourteen in any performance or exhibition dangerous to the life or limbs of the child. The penalty upon the employer is £10 for every offence, with compensation in addition not exceeding £20. (See "Dangerous Performances.")

Perfecting Bail is the effectual acceptance and binding of sureties for the appearance of a person to be discharged on bail.

Perjury is giving wilfully false evidence of a character materially affecting the issue being tried in any legal proceedings, after having made oath, affirmation, or solemn declaration as prescribed and permitted by law. The penalty upon conviction extends to seven years' penal servitude.

Permit is the name of the formal authority required before any person can remove more than a stated quantity of spirits,

tobacco, &c., from one place to another, the penalties for removing without permit being very severe.

Perpetual Curate. At the dissolution of the monasteries in the time of Henry VIII., the appropriations of tithes were transferred from these spiritual societies through the king to lay persons. To them also, for the most part, was transferred the appointment of vicars in the parishes where they were the appropriators, in all those parishes where a vicar had been, prior to the dissolution of the monasteries, appointed. There were many benefices, however, in which the tithes had been appropriated to a religious house, where there was no regularly endowed vicar, the cure having been served by a curate of the ecclesiastical body to whom the appropriation had been made. In all these cases, the charge of providing for the cure was, after the dissolution of the monasteries, cast upon the lay appropriator, and he was consequently obliged to nominate some particular person to the ordinary for his licence to serve the cure. Such curates thus licensed became perpetual in the same manner as vicars had been before, not removable at the caprice of the appropriator, but only by due revocation of the licence of the ordinary. A perpetual curacy is a benefice, and a perpetual curate is liable to the restrictions of the Benefices Pluralities Act (1 & 2 Vic. c. 106).

The ministers of the new churches of separate parishes, ecclesiastical districts, consolidated chapelries, and district chapelries, are perpetual curates, so that they are bodies politic and corporate, with perpetual succession. This is also the case with those ministers who are appointed to new districts or parishes under the Church Endowment Act.

Perquisites. In law this expression is very different in its meaning to that popularly understood. It is legally defined as things gotten by a man's own industry, or purchased with his own money, as opposed to things which come to him by descent.

Personal Action is one arising in such a way that none but the aggrieved person can proceed upon it.

Personal Chattels are things movable.

Personal Property is everything that is not land, or that cannot be dissevered from land without destruction or injury. Personality is the personal property of a particular person.

Petit Treason is treason towards other than the Crown, that being distinguished as high treason. Petit treason is where a person who is under an obligation of service or relationship fatally abuses it—as where a servant kills his master or a wife her husband.

Petroleum. Additional regulations as to petroleum are provided by Acts passed in 1879 (42 & 43 Vic. c. 47) and 1881 (44 & 45 Vic. c. 67). The former prescribes a test of 78 degrees instead of 100 as bringing any oil within the regulations; the latter prescribes under what conditions petroleum may be hawked, with penalties for hawking it in disregard of such conditions.

Petition to Parliament must be wholly in writing, with the signature of at least one of the petitioners on the same sheet as that upon which the petition is written, two or more sheets of paper firmly stuck together being regarded as one sheet. The usual and best course is to stick any additional sheets of signatures at the bottom of the preceding sheet successively, and eventually to make of the whole one roll.

Petition is the form prescribed for the commencement of proceedings in the Divorce Court, Bankruptcy Court, and under some other circumstances. Instead of issuing a writ against the opposite party, it is necessary to petition the court to move in the matter, and the subsequent proceedings are governed accordingly.

Petitioning Creditor is one who petitions the Bankruptcy Court to adjudicate with reference to any particular debtor or debtors.

Pettifogger is a lawyer who cultivates clients and cases of a paltry character.

Petty Bag Office is an office in Chancery from which are issued writs from the Crown upon matters personally or officially concerning the Crown.

Petty Jury is one neither special nor grand. See "Jury."

Petty Larceny was a theft under the value of a shilling, formerly distinguished from grand larceny to an amount equal to a shilling or upwards. The distinguishment was anciently of much practical importance, but it is now totally abolished.

Petty Sessions. The court constituted by two or more justices of the peace in England, when sitting in the administration of their ordinary jurisdiction. Though for many purposes a single justice may do acts auxiliary to the hearing and adjudication of a matter, yet the jurisdiction to adjudicate is generally conferred upon the justices in petty sessions, in which case there must be at least two justices present, and this is called a petty sessions, as distinguished from quarter sessions, which generally may entertain an appeal from petty sessions. For the purpose of always securing sufficient justices, the whole of the counties of England are subdivided into what are called petty sessional

divisions, those justices who live in the immediate neighbourhood being the members who form the court of such division. This subdivision of counties is confirmed by statute, and the justices at quarter sessions have power from time to time to alter it. Each petty sessions is held in some town or village which gives it a name, and a police-court or other convenient place is appropriated for the purpose of the sittings of the court. There is a clerk of each petty sessions, who is usually a local attorney, who advises the justices and issues the summons, and receives the fees made payable for steps of the process. The justices in petty sessions have a multifarious jurisdiction, which they exercise chiefly by imposing penalties authorized by various Acts of Parliament; as penalties against poachers, vagrants, &c. They have also jurisdiction to hear charges for all indictable offences; to take depositions of witnesses; and, if they think a sufficient case is made out, to commit the party for trial at the quarter sessions or assizes.

Pews. In England, all church-seats are at the disposal of the bishop, and may be assigned by him, either directly by faculty to the holder of any property in the parish, or through the churchwarden, whose duty it is to seat the parishioners according to their degree. In the former case the right descends with the property, if the faculty can be shown or immemorial occupation proved. In the latter case the right can be at any time recalled. At common law, every parishioner has a right to a seat in church. The practice of *letting* pews, except under the Church Building Acts or special Local Acts of Parliament, and much more of selling them, is illegal though submitted to.

Pharmacy Acts. These were passed in 1852 (15 & 16 Vic. c. 56); 1868 (31 & 32 Vic. c. 121); 1869 (32 & 33 Vic. c. 117). The object of these Acts is to limit to qualified persons the selling of poisons, and the carrying on of business under the designation of a chemist or druggist.

Pilotage. Various Acts of the present reign (among which may be mentioned 17 & 18 Vic. c. 104, secs. 330-388; 25 & 26 Vic. c. 63, secs. 39-42) recognize and confirm the powers and jurisdictions theretofore lawfully exercised by various bodies of persons in different parts of the kingdom, as to the appointment and regulation of pilots for those districts respectively—the most important of which bodies is the Trinity House of Deptford Stroud; which is a company of masters of ships incorporated in the reign of Henry VIII., and charged by many successive charters and Acts of Parliament with numerous duties relating

to the marine. These bodies—under the common name of “Pilotage authorities”—are severally enabled by bylaws, to be made with consent of Her Majesty in council, to do various things within their respective districts; and amongst others to determine the qualifications to be required from persons applying to them to be licensed as pilots, whether in respect of their age, skill, time of service, character, or otherwise; to license such as are qualified; and to make regulations for the government of the pilots they so license. It is further provided that every pilotage authority shall have power by bylaw, made with consent of Her Majesty in council, to exempt the masters of any ships, or of various classes of ships, from being compelled to employ qualified pilots; and that the Board of Trade shall have power, by provisional order to be confirmed by Act of Parliament, to exempt them from being obliged to employ pilots in any, or in any part of any, pilotage district. Certain masters or mates of ships, after being found competent by examination to pilot any ship within any particular pilotage district, may have a certificate granted to them by the pilotage authority to pilot such ships within such district, without incurring any penalty for the non-employment of a qualified pilot. But every master of an *unexempted* ship navigating within any district, who—after a qualified pilot has offered to take charge of her, or has made a signal for that purpose—either himself pilots her without possessing a pilotage certificate enabling him to do so, or employs an unqualified person to pilot her; and every master of an *exempted* ship who, under the like circumstances, employs an unqualified person to pilot her, incurs for every such offence a penalty of double the amount of pilotage demandable for the conduct of such ship. With regard to the Trinity House in particular, it is allowed to appoint and license pilots for the limits following, that is to say:—1. “The London District,” comprising the waters of the Thames and Medway as high as London Bridge and Rochester Bridge respectively, and also the seas and channels leading thereto and therefrom as far as Orfordness to the north and Dungeness to the south. 2. “The English Channel District,” comprising the seas between Dungeness and the Isle of Wight. 3. “The Trinity House Outport Districts,” comprising any pilotage district for the appointment of pilots within which no particular provision is made by Act of Parliament or charter. In general, the employment of pilots in the first and third of these districts is compulsory; but the following ships, when not carrying passengers, are exempt from

this compulsion :—1. Ships employed in the coasting trade of the United Kingdom. 2. Ships of no more than sixty tons burthen. 3. Ships trading to Boulogne or any place in Europe north of Boulogne. 4. Ships from the Channel Islands laden with stone from those islands. 5. Ships navigating within the limits of the port to which they belong. 6. Ships passing through the limits of any pilotage district on their voyages between two places, both situate out of such limits, and not being bound to any place within such limits, or anchoring therein.

There is also a general enactment, that no owner or master of any ship shall be answerable to any person whatever for any loss or damage occasioned by the fault or incapacity of any qualified pilot acting in charge of such ship, within any district where the employment of such pilot is compulsory by law.

Pin-Money is a settlement of an income upon a wife to provide for her personal clothing and adornment, the same being at her sole disposal.

Piracy is robbery on the high seas, now almost obsolete. The designation is also applied to the infringement of a copyright.

Piscary is liberty to fish. The right to fish in the waters of a common is called "common of piscary."

Pittance originally meant a very meagre meal, but is now generally applied to an inadequate or contemptible sum of money.

Pixing of Coin is testing its value by the standards.

Plaint is the ground of an action or legal proceeding, evidently universal of old—hence the designation of the "plaintiff" in the highest courts; but the writ has superseded the plaint in all but the county courts, where it is authoritatively adopted.

Places of Worship. Every consecrated or licensed church or chapel of the Established Church spontaneously possesses the status of a place of religious worship. All other places of worship are required to be certified as prescribed by the Act of 1812 (52 Geo. III. c. 155), as amended by the Act of 1855 (18 & 19 Vic. c. 81), and the effect of the certificate is to constitute such certified place one for religious worship. During every meeting for worship in every such certified place it is illegal for the door to be locked, bolted, barred, or otherwise fastened so as to prevent any persons entering therein during the time of any such meeting, the penalty for infringement being not less than 20s. nor more than 40s.

Disturbance of Worship. Riotous, violent, or indecent behaviour in any place of public worship, whether during service or at any other time, or molestation of any duly authorized

preacher therein, subjects the offender to a penalty of £5, or two months' imprisonment without the option of the fine if the magistrate thinks it fit so to decide; and if the offender maliciously or contemptuously disquiets or disturbs any meeting for religious worship in a place of religious worship, such person is liable to a penalty of £40.

Sites for Places of Worship. As the owners of some great estates, by refusing to permit the erection of Dissenters' chapels on their land, virtually prohibited the existence of Dissenters in some places, and as entailments rendered the conveyance of land for such purposes in many cases impossible, an Act was passed called the Places of Worship Sites Act, 1873 (45 & 46 Vic. c. 21), which was designed to facilitate the conveyance of pieces of land not exceeding one acre for sites for places of religious worship and for burial-grounds. An Act of 1882 (45 & 46 Vic. c. 21) extended the former Act, so as to enable corporations to convey land as sites for places of worship.

Plea is the answer of the defendant to a plaint or allegation by the plaintiff.

Pleading is the process of preparation of a written statement of plaint or defence, or the personal appearance to do so in court. See also "Special Pleading."

Pleading Over, or passing by, is when the plea makes no adverse use of a weakness in the case of the opposite party. The expression is also used when one plea has been defeated, and so is passed by; other pleas, or a general plea, being then urged.

Pledge, in strictness, is literally a pawn, but the word is more frequently used to denote a surety or security.

Plenary—otherwise "Plenary"—literally means full. It is most commonly used in cases of plenary power, meaning unrestricted power.

Plevin is a warrant or assurance.

Ploughbote is wood which some commoners are entitled to take from their common for the purpose of repairing agricultural implements.

Pluralities. By the statute 1 & 2 Vic. c. 106, and by 13 & 14 Vic. c. 98, it is enacted that in future (and subject to exception in the case of rights already vested) no spiritual person shall take and hold together any two benefices—except in the case of two benefices, the churches of which are within two miles of one another by the nearest road, and the annual value of one of which does not exceed £100; that no spiritual person holding a benefice with cure of souls, with a population of more

than 3,000 persons, shall take to hold therewith any other having a population of more than 500; nor *vice versâ*; that no spiritual person holding more than one benefice with cure of souls shall take to hold therewith any other, or any cathedral preferment; and that on every admission to a new benefice or preferment contrary to the Acts, every benefice previously held shall be void *ipso facto*; which prohibitions, however, in respect of population and yearly value are subject to a provision enabling the Archbishop of Canterbury to grant a dispensation therefrom in certain cases, on recommendation of the bishop of the diocese.

Poaching is the unlawful taking or killing of game by night, or entering upon any land at night with gun or other means of taking or killing game. It is especially provided against by Acts of 1828 (9 Geo. IV. c. 69) and 1844 (7 & 8 Vic. c. 19). The punishment for the first offence is three months' imprisonment with hard labour, and further imprisonment for six months in default of sureties for good behaviour for a year. Second offence, double the punishment. Third offence, penal servitude for seven years. A poacher may be arrested by any constable, or by any person interested in the land trespassed upon.

Police. The idea of police-constables dates back to the time of Alfred, and various forms of police have subsisted ever since. The modern constitution of the various police forces arose in 1829. The metropolis was in so very insecure a condition that Sir Robert Peel's Act was passed (10 Geo. IV.) for improving the police in and near the metropolis. Under this Act the whole of Westminster, and certain parts of Middlesex, Surrey, and Kent, were formed into a district called the Metropolitan Police District. Two salaried commissioners of police were appointed (the number has since been reduced to one) for the government of the police force established by this Act. A similar system has been since introduced into various large towns, either by special Acts of Parliament passed for that purpose, with the aid of the Towns' Police Causes Act, 1847, or by force of the several provisions of the Lighting and Watching Act (3 & 4 Will. IV. c. 90), or in the case of boroughs under the Municipal Corporation Act (5 & 6 Will. IV. c. 76). The parish-constables having been also found unequal to the due preservation of peace and the suppression of crime in many counties, power was given by statutes 2 & 3 Vic. c. 93, and 3 & 4 Vic. c. 88, to the justices of the peace for any county, assembled in general or quarter sessions, to report to one of

Her Majesty's Secretaries of State that the ordinary officers appointed for preserving the peace were not sufficient for that purpose, and the protection of the inhabitants and the security of property within the county; and stating how many constables were needed for that purpose, not exceeding one man for every 1000 inhabitants. General rules for the government, pay, clothing, and accoutrements of the constables being then furnished by the Secretary of State, the justices may proceed (subject to his approval) to appoint a chief constable for the county, or for each parliamentary division thereof; the chief constable then appointing (subject to the approval of two or more justices in petty sessions) the other constables, and a superintendent to be at the head of the constables in each division; the whole, when sworn in, having all the powers, privileges, and duties which any constable duly appointed has within his constableness by virtue of the common law or of any statute. By a subsequent Act (19 & 20 Vic. c. 69) the discretionary power of adopting this Act was taken away, and the justices of every county in which a constabulary had not been established for the whole of such county, under the above Acts, were directed at the general or quarter sessions holden next after Dec. 1, 1856, to proceed to establish a sufficient police force for the whole of such county; or where a constabulary was already established for a part of it, then for the rest of such county. Various provisions were made by these statutes for the distribution, in certain cases, of the police force, according to the requirements of particular districts, and for consolidating the police of boroughs with those of the county, and giving the officers of each co-extensive powers. The justices are required to report to one of the Secretaries of State as to the number of officers, the number of persons apprehended, and other matters relating to the state of crime; and power is given to Her Majesty to appoint three persons as inspectors to visit and inquire into the state and efficiency of the police in every county. The police force thus established is paid by means of a police-rate made by the justices of the county assembled in general or quarter sessions, and levied with the county-rate. Upon the certificate, however, of one of the Secretaries of State that the police of any county or borough has been maintained in a state of efficiency in point of numbers and discipline for the previous year, the Commissioners of the Treasury are empowered to contribute towards the expenses of such police a sum not exceeding one-fourth of the charge for their pay and clothing.

Poll. A deed poll is one executed by only one person.

Poor Laws. The necessity for what we call Poor Laws was created by the confiscation of the monasteries and other religious houses by Henry VIII. The relief previously distributed from those places to the needy being suddenly withdrawn, the county was speedily overrun by what an early statute called "valiant beggars," for the suppression of whom, and for the relief of those who were acknowledged to be "poore in verie dede," various Acts were passed, culminating in that of 43 Eliz. c. 2, which was the foundation of what was called the Old Poor Law, and continued with various alterations until 1834, when the so-called New Poor Law was instituted by 4 & 5 Will. IV. c. 76, which, with subordinate amendments, has subsisted ever since. The primary provisions of the new Poor Law are that under it parishes are amalgamated into unions for Poor Law purposes, under the local supervision of "guardians of the poor," elected by the ratepayers of the respective unions. But the greatest change effected by the Act of 1834 was the introduction of the Poor Law Commissioners, afterwards called the Poor Law Board, and now merged into the Local Government Board, which is intrusted with immense powers of primary superintendence that in many respects supersede and over-ride local authority. It is a very complicated subject, the details of which cannot be entered into in a popular book. It involves conflict of ideas between what are respectively called Centralization and Local Government, concerning which there is much divergence of evidence as well as of opinion.

Poor Law Conferences, or meetings of representative guardians of the poor for mutual counsel, have been resorted to for some years, and an Act of 1883 (46 Vic. c. 11) authorizes the payment of the expenses of such conferences out of the rates.

Poor-Rate. The origin of the modern poor-rate is to be found in the statute 43 Eliz. c. 2, which empowers the churchwardens and overseers of the poor in each parish to raise money "by taxation of every inhabitant, parson, vicar, and others, and of every occupier of lands, houses, tithes impropriate, appropriations of tithes, coal-mines, or saleable underwood in such parish." The duty of making and levying the poor-rate still belongs to the churchwardens and overseers, who, however, are now assisted under recent statutes by collectors and assistant overseers. The rate is raised prospectively for some given portions of the year, and upon a scale adapted to the probable exigencies of the parish. As an *occupier*, a man is rateable for all lands which he

occupies in the parish, whether he is resident or not; but the tenant (and not the landlord) is considered as the occupier within this statute. As an *inhabitant*, a man was formerly liable to be rated according to his apparent ability—that is, according to the value of the stock in trade and other local and visible personal property he had within the parish, and of which he made profit; but by recent statutes this liability has been taken away. By 6 & 7 Will. IV. c. 96 it was provided that no poor-rate shall be in force which shall not be made on an estimate of the net annual value of the several hereditaments rated: that is to say, the rent at which the same may reasonably be expected to be let from year to year, free of all usual tenants' rates and taxes, and tithe commutation rent-charge (if any), and deducting therefrom the probable average annual cost of the repairs, insurance, and other expenses (if any) necessary to maintain them in a state to command such rent. By 43 Eliz. c. 2, sec. 1, no rate can be deemed valid unless it be allowed by two justices, and by a subsequent Act public notice thereof must be given at the parish church on the Sunday next after the same has been allowed. The allowance by the justices is a mere matter of form; but after allowance and publication any person aggrieved by the rate, and having reasonable objection to it, may appeal against it to the next practicable quarter sessions of the county in which the parish is situate. As far as regards objecting on the ground of irregularity, unfairness, or incorrectness of valuation, appeals may now also, at the option of the party aggrieved, be preferred to the justices at their petty sessions (under 6 & 7 Will. IV. c. 96), which are to be held four times at least in every year for hearing such appeals within their respective divisions; and their decision shall be conclusive unless the parties impugning it shall within fourteen days give notice of appeal therefrom to the next general sessions or quarter sessions of the peace. In either course of proceeding the justices have power to affirm, grant, or amend the rate; or, if it become necessary to set the whole aside, may order the overseers to make a new rate. They have also authority to award costs to the successful party, and the Court of Quarter Sessions may make its decision subject to a special case for the decision of one of the superior courts in the ordinary manner prescribed for all special cases.

By the Poor Law Amendment Act of 1834 (4 & 5 Will. IV. c. 76), in connection with the 10 & 11 Vic. c. 109, the Poor Law Commissioners (see the Art. "Poor Laws") have power, where they think it desirable, to direct that the relief of the poor in

any parish shall be administered by a Board of Guardians, to be elected by the owners of property and ratepayers of such parish. They have also the important power of consolidating at their own discretion—so far as the relief and management of the poor is concerned—two or more parishes into one united body or union; and by the Union Assessment Acts of 1862 and, 1864 such component parishes are now united for the purposes of settlement and of rating, as well as of relief and management.

The payment of rates may be enforced, under warrant of the justices, by distress; if, however, a person has appealed against a rate, the justices cannot enforce payment until the appeal has been decided. A person may be excused from payment of rates on the ground of poverty. By 59 Geo. III. c. 12, and other subsequent statutes, it was made lawful for the inhabitants of any parish in vestry assembled to resolve and direct that the owners and lessors of small tenements in certain cases should be rated in respect of the same instead of the occupier. (See "Compound Householder.")

Populous Place. For purposes of the Licensing Act, 1874, a populous place is one containing not less than a thousand inhabitants, and which the local licensing committee has determined to regard as such.

Posse (*in posse*) is that which may be, as distinguished from that which is, which is *in esse*.

Posse Comitatus, the powerful county.

Post, after.

Post Litem Motam, after an action has been contemplated.

Post Obit Bond, a bond given to secure the repayment of a sum of money out of a reversion to accrue upon the death of some other person.

Post-dating is the dating of a bill or other document later than the time when it is drawn or executed. When stamps were charged in proportion to the time a bill had to run, post-dating was a fraud upon the revenue and a very serious offence subject to heavy penalties; but since stamps are charged in proportion to the amount of the bill, post-dating is not subject to penalties and is no offence unless it be with the intent to effect a specific fraud.

Post-Office. In England, in early times, both public and private letters were sent by messengers, who in the reign of Henry III. wore the royal livery. In the reign of Edward I. posts were established where horses were to be had for hire. The posts were meant for the conveyance of government

despatches only; but by degrees permission was extended to private individuals to make use of them.

Much of the modern post-office was founded by Act 3 Anne c. 10, which repealed the former post-office statutes and put the establishment on a fresh basis. A general post-office was instituted in London for the whole British dominions, with chief offices in various other cities. The whole was placed under the control of an officer appointed under the great seal and styled the Postmaster-General. The rates of postage were raised by this Act, and they were further subsequently raised by 1 Geo. III. c. 25.

In 1840, by statute 3 & 4 Vic. c. 96, the reforms suggested by Sir Rowland Hill were carried into effect. The main of them were—1. The deprivation of members of parliament of the right to frank their letters. 2. The adoption of a penny as the uniform rate for every letter not exceeding half an ounce. 3. The introduction of postage-stamps. 4. The establishment of the money-order office. For some years after the introduction of these reforms there was a falling-off in the revenues of the post-office; but they have in the long run proved as advantageous to the exchequer as they have been beneficial to the public. In the last few years the rates of postage have been still further lowered, and other improvements have been introduced; these, however, are too well known to require mention here.

A Savings-Bank was established in connection with the post-office in 1861 by statute 24 Vic. c. 14. This department keeps a separate account for every depositor, acknowledges the receipt of every deposit, and, on the requisite notice being furnished, sends out warrants authorizing postmasters to pay withdrawals. The deposits are paid over to the Commissioners for the Reduction of the National Debt, and repaid to the depositors through the post-office. The rate of interest payable to depositors is $2\frac{1}{2}$ per cent. Each depositor has a savings-bank book, which is sent to the department yearly for examination, and the accruing interest is then calculated and allowed.

The monopoly of the post-office is protected by various statutes, the principal one being 1 Vic. c. 33, sec. 2, which inflicts a penalty of £5 on any person conveying otherwise than by post a letter not exempted from the exclusive privilege of the Postmaster-general. This privilege does not extend to books or newspapers. It may be remarked that one may always send a letter by a friend or a special messenger; but it is unlawful for any person to collect and distribute letters for any one who chooses to employ him, as this is doing the work of the post-

office. Moreover, common carriers and masters of ships are expressly prohibited from carrying letters, even gratuitously, unless they relate to goods they are carrying; passengers on board ship are under the same prohibition.

Postea. The return of a judge before whom a cause was tried, after a verdict, of what was done in the cause. It is endorsed in the *nisi prius* record by the associate.

Post Nuptial. After marriage.

Postremogeniture. Precedence of the youngest, which occurs in "Borough, English."

Potentia Propinqua is an ordinary possibility which we may reasonably expect to happen.

Potentia Remota. A remote possibility not likely to happen.

Potwaller, or Potwalloper, is a person who furnishes his own diet. A committee of the House found "that a potwaller, according to the usage of the borough, is one, whether he be a householder or a lodger, who has the sole dominion over a room with a fire-place in it, and who furnishes and cooks his own diet at his own fire-place, or at some other place within the same house, at which fire-place he has a legal right so to do, and who has actually cooked his diet at such fire-place." By custom in many boroughs, before the Reform Act of 1832, potwallers had the borough vote. Those persons who were thus qualified at the time of the passing of that Act had their privilege confirmed to them personally under certain conditions; but the qualification was abolished for the future as to all other persons.

Poundbreach is releasing cattle or other property legally impounded, or attempting to do so by destruction or breaking of the pound or its fittings. It is expressly provided against by an Act of 1843 (6 & 7 Vic. c. 30), which imposes a penalty for every offence of £5, or three months' imprisonment with hard labour in default of payment of the penalty.

Pourparty. A coparcener's share.

Pourpresture is wrongfully enclosing land so as to fraudulently acquire dominion over it.

Poursuivant. A king's messenger.

Pourveyor is one who provides necessaries of consumption for the king's house, commonly called Purveyor.

Power. A power, in law, is a defined authority to do certain things expressed or implied.

Power of Attorney is an authority given by one person, as A., to another person as B., to act for A. during A.'s absence. B. is then A.'s attorney. Any person of age is qualified to act upon such a power. He need not be a professional legal practitioner.

Practice. This word implies the usual course of legal business of any kind, particularly with reference to documents and formalities, processes and pleadings, which may be called the mechanical technicalities of the law in operation.

Præcipe is a form of writ which commands the recipient to do something prescribed, or to give a sufficient reason for not doing so. The word has often and is loosely used to denote a memorandum relating to some stage of legal proceedings, the customary application of which can only be learned on reference to "practice."

Præmunire is the offence of setting up, or affecting to set up or recognize, the jurisdiction in this country of any foreign power. It has generally been most applicable against claims of the Pope to jurisdiction, and may now be considered obsolete.

Preamble is the name given to the introductory matter or commencement of an Act of Parliament, generally showing the avowed reason or motive for passing the Act. Of late years, though the preamble appears first, it is a common arrangement for it to be the last part really dealt with.

Prebend. The fixed portion of the rents and profits of a cathedral or collegiate church set apart for the maintenance of a priest or deacon, who was styled a "prebendary."

Prebendary. Since the passing of 3 & 4 Vic. c. 113, sec. 1, the term has been extinct, and every member of the chapter in every cathedral church in England is styled a canon.

Precedence, Order of. The rules of precedence in England may be reduced to the following table:—

The Sovereign.	
The Prince Consort.	
The Sovereign's children and grandchildren.	
The Sovereign's brethren.	
The Sovereign's uncles.	
The Sovereign's nephews.	
Archbishop of Canterbury.	
Lord Chancellor or Keeper, if a baron.	
Archbishop of York.	
Lord Treasurer	} If barons.
Lord President of the Council	
Lord Privy Seal	
Lord Great Chamberlain (see private statute 1 st Geo. I. c. 3).	
Lord High Constable.	
Lord Marshal.	} Above all peers of their own degree.
Lord Admiral.	
Lord Steward of the Household.	
Lord Chamberlain of the Household.	

Dukes.
Marquesses.
Dukes' eldest sons.
Earls.
Marquesses' eldest sons.
Dukes' younger sons.
Viscounts.
Earls' eldest sons.
Marquesses' younger sons.
Secretary of State, if a bishop.
Bishop of London.
Bishop of Durham.
Bishop of Winchester.
Bishops.
Secretary of State, if a baron.
Barons.
Speaker of the House of Commons.
Lords Commissioners of the Great Seal.
Viscounts' eldest sons.
Earls' younger sons.
Barons' eldest sons.
Knights of the Garter.
Privy Councillors.
Chancellor of the Exchequer.
Chancellor of the Duchy.
Lord Chief Justice of England.
Lords Justices of the Court of Appeal.
Vice-Chancellors.
Judges.
Knights Bannerets Royal.
Viscounts' younger sons.
Barons' younger sons.
Baronets.
Knights Bannerets.
Knights of the Bath.
Serjeants-at-Law (an extinct designation).
Knights Bachelors.
Baronets' eldest sons.
Knights' eldest sons.
Baronets' younger sons.
Knights' younger sons.
Colonels.
Doctors.
Esquires.
Gentlemen.
Yeomen.
Tradesmen
Artificers.
Labourers.

Married women and widows are entitled to the same rank among each other as their husbands would respectively have

borne between themselves, except such rank is merely professional or official; and unmarried women to the same rank as their eldest brothers would bear among men during the lives of their fathers.

Precedents. This expression is of frequent use in legal circles. A precedent is some prior example. Its most important application is to the former decisions of the various judges and courts, but it also applies to established modes of doing legal business, and especially to the wording and arrangement of legal documents in accordance with eminent authority or acknowledged custom; hence any good form of phraseology is said to be a good precedent.

Precept is the designation given to some formal documents in the nature of commands or requisitions upon defined authority. In most legal connections it has been superseded, but has been revived of late years in the form prescribed to some public bodies that have no rate-collecting powers, who are authorized to demand by precept from other public bodies that *have* rate-collecting powers. The school-boards everywhere are authorized to demand the money for their expenses by precepts addressed to the respective local bodies upon whom devolves the collection of local rates.

Precinct literally signifies boundary, but it is practically applied to the immediate surroundings of some building, as a cathedral, and also to the sub-district of a constable.

Pre-emption. See "Purveyance."

Preference. This generally applies to giving preference to one creditor over another in cases of insolvency, when the debtor, being unable to pay all his creditors, pays one or more so as to deprive the rest of their equitable share of the assets. Where bankruptcy immediately follows, the creditors who have had such preference, with intent to avail themselves of it (which is often impossible to prove), may be compelled to refund the money; and the bankrupt, if he has given secret preference, is liable to two years' imprisonment with hard labour.

Preference Shares are those entitled to a stated dividend before any dividend is paid on ordinary shares. The preference is void if not expressly authorized by Act of Parliament or otherwise.

Preferential Debts. In bankruptcy these rank as follows: Parochial and other local rates; wages of servants and clerks; which may be paid in full if there be sufficient to pay, though nothing be left for trade creditors.

Prejudice is to prejudice; hence, "without prejudice" is an expression accepted as having the legal effect of disavowing any contingent or ultimate liability with reference to a conditional promise, undertaking, offer, or proposal, which is not to be regarded as in any way binding until subsequently confirmed.

Premises, in legal phraseology, is a word synonymous with circumstances; "in the premises" and "under the circumstances" being, in most cases, exact equivalents. The reciting of the circumstances under which a deed is drawn is therefore called the premises.

Premium, in general, is a reward, compensation, commission, or price of some favour or preference. It is also used to denote the difference between the nominal value and the higher price of anything, and is the universal designation of the annual amount payable upon a policy of insurance.

Prepense means premeditated, or, as it is also quaintly expressed, *aforethought*.

Prerogative. By this word is to be understood the character and power which the sovereign has over and above all other persons in right of his regal dignity; and which, though part of the common law of the country, is out of its ordinary course. It is said to be that law in case of the king which is law in no case of the subject. "Prerogative, in its old sense," says Hallam, "might be defined an advantage obtained by the Crown over the subject, in cases where their interests came into competition, by reason of its greater strength." In the times of the Plantagenets, Tudors, and most especially of the Stuarts, it was the fashion for kings and their courtiers to use the word as signifying a sort of absolute power inherent in the king, which set him above the law. This, however, never was the language of our ancient constitution and laws. Numerous laws, from *Magna Charta* downwards, were enacted to maintain, against the arm of the Crown, liberty to the subject's person and security to his property. If it be said that the king was continually acting in defiance of these laws, we may point on the other hand to the continual petitions of the Commons, the acts of the legislature, and the testimony of lawyers and historians, to show that the English people never acquiesced in those acts and never regarded them in any other light than as acts of illegality.

The particular rights or liberties which have at different periods been found most liable to the invasions of the prerogative, have been, on various occasions of apprehended danger, asserted in parliament. 1. By the great charter of liberties

obtained from King John, and afterwards with some alterations confirmed by Henry III. (see sub-title "*Magna Charta*"). 2. By the statute commonly called *Confirmatio Chartarum*, which was further granted in the 25th year of Edward I., whereby the great charter was directed to be allowed at the common law; all judgments contrary to it declared void; copies of it ordered to be sent to all cathedral churches and read twice a year to the people; and sentences of excommunication directed to be constantly denounced against all those who infringe it. 3. By a multitude of subsequent corroborating statutes, from Edward I. to Henry IV. 4. By the Petition of Right (13 Car. I. c. 1), which was a parliamentary declaration of the liberties of the people assented to by Charles I. 5. By the many salutary laws, particularly the *Habeas Corpus* Act (see "*Habeas*") passed under Charles II. 6. By the Bill of Rights, afterwards enacted in parliament, 1 Will. and Mary, st. 2, c. 2 (see "*Rights, Bill of*"). 7. By the Act of Settlement, 12 & 13 Will. III. c. 2 (see title "*Settlement, Act of*").

The following may be enumerated as the principal prerogatives of the Crown:—

I. *Such as concern his royal character.*

1. He is said to have imperial dignity.

2. He is exempt from certain disabilities—as, for instance, he can never be a minor. (See sub-title "*Regent.*")

3. Like any other corporation sole, he is said to never die.

4. He is irresponsible, it being an ancient fundamental maxim that the king can do no wrong. Still, his acts may be contrary to law, and are liable to reversal on that ground. So, if a person has in point of property a demand upon the king, though he cannot bring an action against him, he may present a Petition of Right by certain proceedings in one of the superior courts, and obtain redress as a matter of grace. But the king is supposed to do every act by his ministers, and no minister is excused for doing an illegal act by showing that he did it by the especial command of the king. In further pursuance of this principle, the king cannot be guilty of negligence or laches; it is thus a maxim of law, "*Nullum tempus occurrit regi.*"

II. *As to the royal authority or power.*

1. The king has the sole power of sending ambassadors to foreign states and receiving ambassadors at home.

2. He alone may make treaties, leagues, and alliances with foreign states and princes.

3. He has the sole prerogative of making war and peace.

4. He may grant letters of marque or reprisal upon due demand. (See "Letters of Marque.")

5. He may grant safe-conducts into the country.

6. As a constituent part of the supreme legislative power, he may reject such measures in parliament as he judges improper to be passed. (See further sub-title "Parliament," as to the right of the sovereign to summon, prorogue, or dissolve parliament.)

7. He is first in military command within the kingdom. (See previous title "Army.") As belonging to this prerogative, he has the sole right of appointing ports and havens, or such places only, for persons and merchandise to enter and leave the realm; and of erecting beacons, lighthouses and sea-marks. He has further power (under 16 & 17 Vic. c. 107) to prohibit, by proclamation or order in council, the importation of arms, ammunition, gunpowder, or other goods; or the *exportation* (or the carriage coastwise) of the articles above specified or provisions capable of being used as food by man. He has further the right to forbid his subjects to leave the realm.

8. He is the fountain of justice and general conservator of the peace throughout the realm. He is, moreover, the prosecutor in all criminal cases (see "Prosecutor"). He has also the prerogative of pardoning (see "Pardon"). He may also issue proclamations (see "Proclamation"), subject to special provisions.

9. As *parens patriæ* he is invested with a kind of guardianship over various classes of persons who, from their legal disability, stand in need of protection—as *infants, idiots, and lunatics*. (See those titles respectively.)

10. He is the fountain of honour, office, and privilege.

11. He is the arbiter of commerce. He can set up public markets or fairs (see those titles); he regulates weights and measures, and has the sole right of coining money.

12. He is the head of the Church.

III. The sovereign has also prerogatives that regard the royal income.

Prerogative Court. An ecclesiastical court held in each province, before a judge appointed by the archbishop, for administering justice in testamentary matters. Now superseded by the Probate Court.

Prescription was established under the Roman law, and was adopted in the earliest ages of English jurisprudence. It generally arises where there is no documentary title to anything,

but where a right is inherent from long usage. The present law of prescription is founded upon the Prescription Act, 1832 (2 & 3 Will. IV. c. 71), for shortening the time of prescription in certain cases. This Act provides that a right of way or water shall in general be established by user for twenty years; and that where infancy or other disability has prevented proceedings beyond that time, the utmost limit is forty years. The absolute right to windows is acquired by user for twenty years, unless such right be limited by some special covenant to the contrary. The same Act also established prescription with reference to land, but it has so far been repealed by the Act of 1874 (37 & 38 Vic. c. 57), which limits the right of action for the recovery of land to a period of twelve years after the alleged right of action has accrued, and grace for six years more when action is barred by infancy or other incapacity, with the proviso that in no case shall the right of action survive for more than thirty years in all. Absence abroad of the interested party makes no difference, the period of such absence being expressly counted against him, as if he had resided in this country the whole of the time.

Presentation to a Benefice. The literal meaning of this is that the patron presents his nominee to the bishop, whose office it is to institute the candidate unless there be good grounds for refusing.

Presently, though used in familiar conversation in England as meaning by and by, or in a few minutes, is interpreted in Scotland as meaning instantly, or at this moment, and such is its signification when it occurs in English legal documents; but the expression therein is almost obsolete, *now* being a far better word.

Presentment is, in English law, the formal representation by a grand jury of the finding of an indictment; by churchwardens to the ordinary of the state of the parish; by the court of quarter sessions of the fact of the disrepair of a bridge, &c.; and as describing the act of presenting a bill for acceptance or payment.

Presents. "These presents" is a quaint expression, which really means "this document."

President of the Council, Lord. A great officer of the Crown, who takes precedence next after the Lord Chancellor and Lord Treasurer. The Lord President is as ancient as the time of King John, when he was styled "*Consiliarius Capitalis*." His office is to attend on the king, to propose business at the

council table, and to report to the king the several matters transacted there.

Press, Liberty of the. In England, at the Reformation, the control of the press came to be more completely centered in the Crown than elsewhere, the king being armed with ecclesiastical as well as secular power. The Company of Stationers, who in time had the sole right of printing, were servants of the government, subject to the control of the Star-chamber. The censorship of the press was enforced by the Long Parliament, and was re-established more rigorously at the Restoration. It was continued at the Revolution, and the statute regulating it was renewed from time to time till 1693, when the Commons, by a special vote, struck it out of the list of temporary Acts which were to be continued. Since that time the censorship of the press has ceased to exist in this country. But though there are no official restrictions as to what shall and what shall not be published, the authors, printers, or publishers of criminal or injurious matter are amenable to the law, and there are statutory requirements to that effect. (See "Newspapers.")

Presumption is a conclusion or opinion arrived at without direct evidence to sustain it, but which may be reasonably inferred from the circumstances. Otherwise it may be described as something that must be accepted until disproved; or, in the extremest sense, it may mean something that is so self-evident as to need no proof.

Presumptive Evidence generally means evidence of the second class of presumption before referred to, open to rebutting evidence, but conclusive unless disproved.

Pretender. The name given to James Stuart (son of James II.) and his son Charles Edward Stuart.

Prevention of Crimes Act. This Act of 1871 (34 & 35 Vic. c. 112) has special reference to habitual criminals. Under it a second conviction for crime subjects the convict to police supervision for seven years after the end of his imprisonment. Lodging-house keepers and others are rendered liable to penalties for harbouring reputed thieves. Dealers in old metals are rendered liable to registration, police inspection, and penalties for purchasing metals before 9 a.m. or after 6 p.m., or in smaller quantity than 112 lbs. of lead, or 56 lbs. of copper, brass, tin, pewter, German silver, or spelter.

Previous Question. See "Avoidance of a Decision."

Pricking for Sheriffs. The judges and other officers meet on Nov. 12th of every year, and nominate three candidates as

high sheriff for each county respectively. These nominations are submitted to the sovereign, who is entitled to select in each case either of the three so nominated by pricking the chosen name with a pin. The ceremony is of a strictly formal character, the selections really resting with the county magistrates, who notify the judges whom to nominate, and the sovereign is similarly notified which names to prick, three being nominated in each case, partly to keep up the fiction of selection by the sovereign, and partly to provide for the contingency of death, to any of the gentlemen really intended. (See also "Sheriff.")

Priest. The order of priest is one of the three orders in the Church of England. It is directed by 18 Eliz. c. 12 that none shall be made minister (which is to be considered here as synonymous with the word "priest") unless it appears to the bishop that he is of honest life and professoth the doctrines expressed in the Thirty-nine Articles, nor unless he is able to give to the ordinary an account of his faith, in Latin, according to the said articles, or have special gift or ability to be a preacher. By the same Act, and by 44 Geo. III. c. 43, it is provided that none be admitted to priest's orders who is under twenty-four years of age. By the canon law no person shall be admitted into holy orders without a *title* (as it is called); that is, unless he produce to the bishop a presentation to some ecclesiastical preferment in the diocese of such bishop, or such certificate of preferment or provision as in the canon described (Canon 33); or unless he be a fellow or chaplain in some college in Oxford or Cambridge; or unless the bishop himself intends shortly to admit him to some benefice or curacy. Another title is that of being a Master of Arts of five years' standing, that liveth of his own charge in either of the universities; but this is not now considered a sufficient title. The conferring of orders is, subject to these rules, purely a matter of discretion with the bishop. By 13 & 14 Car. II. c. 4, sec. 14, no person is capable of being admitted to any benefice unless he shall have first been ordained priest. It is the special office of the priest to celebrate the sacrament of the Lord's Supper; to pronounce the forms of absolution in the morning and evening service, in the communion service, and in the office for the visitation of the sick; and to preach, though this office is sometimes by special license extended to deacons.

Prima facie Case is a case made out, and good on the face of it until disproved. A similar expression applies to most *ex parte* evidence.

Primage is the charge for loading a ship.

Primary Evidence is direct, and the reverse of secondary or hearsay evidence.

Primate. A chief ecclesiastic; part of the style and title of an archbishop. Thus the Archbishop of Canterbury is styled Primate of all England; the Archbishop of York, Primate of England.

Primogeniture. The law or custom by which for many ages hereditary dignities and (except in rare cases) real estate descend on the death of the father to the eldest son of the family, in preference to, and in exclusion of, all his brothers and sisters. Primogeniture is in full force throughout the British Isles in all cases of intestacy or entail.

Prince of Wales. This title was first given to Edward of Caernarvon, afterwards Edward II., and has ever since been held by the eldest son of the sovereign. The Prince of Wales is necessarily heir-apparent to the throne. He is created Earl of Chester, and is Duke of Cornwall by inheritance, during the life of the sovereign, without any new creation.

Princess Sophia of Hanover was the granddaughter of James I. and the mother of George I., who hence succeeded to the Crown of England upon the death of Queen Anne, he being the next heir under the Act of Settlement of 1700-1 (12 & 13 Will. III. c. 2), which was passed for the purpose of excluding and passing over the male line of the Stuarts descended from James II., each successive claimant of that line to the throne being called the Pretender. Thus the Act of Settlement establishes the dictum that the Crown of England is not necessarily subject to hereditary succession, but depends upon the will of parliament. These circumstances have rendered the Princess Sophia a conspicuous personage in the legal history of this country, as all the sovereigns of England have descended from her ever since the time of Queen Anne.

Printers, Law as to. The existing statutes which apply to printing in general are 39 Geo. III. c. 79, amended by 51 Geo. III. c. 65, and by 2 & 3 Vic. c. 12. By sec. 23 of the first-mentioned Act it is provided that any one who possesses any printing-press or types for printing must deliver notice thereof to the clerk of the peace of the county where the same is to be used. A similar notice is to be delivered to the same functionary by any person who intends to carry on the business of a letter-founder or printing-press maker. Any persons offending against these provisions is liable to a fine of £20. An exception is made, however, in favour of the Queen's printer and

the public presses of the two universities. It is also provided by the same Act, under the like penalty, that any person selling types for printing or printing-presses shall keep an account of the persons to whom he sells the same, and produce it to any justice of the peace who shall require it. And every person who shall print any paper for reward or profit shall carefully preserve one copy of it at least, and shall write on the same the name and place of abode of the person by whom he shall have been employed to print the same. It is further provided by 2 & 3 Vic. c. 12, that every person who shall print any paper or work whatsoever which shall be meant to be published or dispersed, must print upon the front of every such paper (if the same be printed on one side only), or upon the first or last leaf of every paper or book which shall consist of more than one leaf, his name and usual place of abode or business; and that every person who shall publish or disperse, or assist in publishing or dispersing, any paper or book printed without such particulars, shall for every copy so printed forfeit a sum not exceeding £5. But no action or proceeding in any court or before any justice of the peace shall be commenced under this provision, except in the name of the attorney or solicitor-general. In the case of the presses of the two universities, it is sufficient to state "Printed at the University Press, Oxford," or "The Pitt Press, Cambridge," as the case may be. These provisions, however, do not extend to any papers printed by the authority and for the use of either House of Parliament, or for any public board or office; or to the impressing of any engraving; or the printing by letter-press of the name and address or business of any person, and of the articles in which he deals; or to any papers for the sale of goods by auction or otherwise; or to any bank-note or security for payment of money, bill of lading, policy of insurance, letter of attorney, deed or agreement, transfer or assignment of public stock, or securities or dividend warrant thereon; or to any receipt for money or goods; or to any proceedings in any court of law or equity. All these provisions, though still enforceable, have become practically obsolete, and are generally disregarded by all parties concerned.

Prisons. By the Prison Act, 1877 (40 & 41 Vic. c. 21), all prisons, which were previously under the control of the respective county magistrates and some other exceptional bodies, were transferred to newly constituted Prison Commissioners under the immediate direction of the Home Secretary, and at the control of the government for the time being, all prison in-

spectors, officers, and servants being thenceforth in the direct service of the Crown. Visiting committees, consisting of selections of county magistrates, are retained as local checks upon the administration. The Act especially introduces new rules for the classification and commitment of prisoners, and generally provides for a number of official details. Under this Act immense additional power is placed in the hands of the Home Secretary and the government, over whom there is no sort of countervailing control; so that in case of abuses, however gross, there is no available machinery for obtaining a remedy.

Gaol—usually called a common gaol or the county prison—is the place where persons are kept in confinement by a warrant granted by a magistrate. No person can be committed to gaol without such warrant. An accused person is liable to detention by the officer of justice who apprehends him, but he is in the personal custody of that officer, who is bound to bring him before a magistrate as soon as possible. The magistrate may either (if he find no reason to believe the man to be guilty) discharge him, or he may deal with him summarily and send him to gaol, or he may remove him for further inquiry, in which case, if he does not take bail, he grants a warrant for his detention in gaol; or he may commit him for trial at the next assizes; or, if the offence be triable at sessions, at the next quarter sessions. In this latter case, also, if the magistrate either cannot from the nature of the offence, or does not under the circumstances think it advisable to accept bail, he grants a warrant for his detention in gaol. The accused person then remains in such gaol until his trial. If he is then found guilty he is sentenced (according to the nature of the offence) to either death, imprisonment with hard labour, or penal servitude. In the first case, he is lodged in gaol until his execution, which, under the Act of 1868, takes place within the gaol. In the second case, he is only detained in gaol until he can be conveniently sent to the *House of Correction*, in which place he serves his sentence. In the third case, he is also detained in gaol until he can be sent to a convict prison.

Prison Charities. An Act was passed in 1882 (45 & 46 Vic. c. 65) to make provision for certain prison charities. A prison charity is defined as a charity the endowment of which is applicable for the benefit of any prisoners, or for any purpose connected with any prisoners or prison, whether the prisoners be confined in or the prison be a common gaol, house of correction, or other place of confinement.

Private Bills are initiated by petition to parliament. The standing orders of each house require certain notices to be given to the parties interested by personal service, and to the public by advertisement. The practice in both Houses now is for all petitions for private bills to be referred to four examiners, two from the Lords and two from the Commons, whose duty it is to examine whether certain notices and other forms required by the standing orders of the House have been complied with. If the report be favourable, leave is given to bring in the bill; if unfavourable, it is referred to a committee, called the Committee on Standing Orders, who report on the propriety of relaxing the standing orders in this individual case: should they report unfavourably, it is still in the power of the House to relax the standing orders—though this is rarely done. Three days must elapse between the first and second reading. At the second reading the principle is considered, as in the case of public bills; and if the bill be carried it is referred (unless a railway, canal, or divorce bill) to the “Committee of Selection,” consisting of the chairman of the Standing Orders Committee and five other members nominated at the beginning of the session, whose functions are to classify the bills, to nominate the committees on them, and to arrange their time of sitting. A railway or canal bill is referred to the “General Committee of Railway and Canal Bills.” This committee forms bills of this class into groups, and appoints the chairman which is to sit on each bill from its own body, the remaining members, four in number, being chosen from the Committee of Selection. Before the sitting of the committee, every private bill, whether opposed or unopposed, must be examined by the chairman of the Committee of Ways and Means and his council. It is also laid before the chairman of the Lords’ committee and his council, and effect is given to their observations, a proceeding which greatly facilitates the after-progress of the bill in the House of Lords. The Board of Trade, the Secretary of State for the Home Department, the Lords Commissioners of the Admiralty, and the Commissioners of Woods and Forests, also exercise a supervision over private bills of various kinds by which the respective rights of the departments may be supposed to be encroached on. In the House of Lords, estate bills are referred to the judges. Every bill at the first reading is referred to the examiner, before whom compliance with such standing orders as have not been previously inquired into must be proved. The Standing Orders Committee of the Lords is now assimilated in functions to that of

the Commons. The bill is returned to the Commons either with amendments, or with a message that it is agreed to without amendments. In case of disagreement between the Houses, the matter is dropped *sub silentio*, as in the case of public bills.

Privateers. See "Letters of Marque."

Privileged Communication is so called when it is of a slanderous or libellous character that would ordinarily render its author liable to damages, but which is made under such circumstances, as by a client to his solicitor, or by the proprietor of a newspaper to his readers in the ordinary course of journalism, and without malice or desire to injure the party alleging that the communication is a grievance. A privileged communication is not actionable, but it is very difficult to draw the line between what is privileged and what is not—defamatory gossip, even though true, being actionable, unless the public good can be alleged as the motive for making the communication. Another interpretation of a privileged communication is one that a witness is justified in refusing to disclose in evidence. Such is the character of every conversation between a solicitor and his client.

Privileged Debts. These debts have priority in bankruptcy, being payable in full before a dividend can be paid to any ordinary creditor. Local rates and the wages of servants and clerks are of this order. (See "Preferential Debts.")

Privy. When a person is said to be privy to something, it means that he is a party or has an interest in the matter referred to, or that he is in the secret if there is one, or knows all about the subject in question.

Privy Council (secret council), as at present constituted, is an assembly of natural-born subjects of Great Britain (by the Act of Settlement no person born out of the United Kingdom, except he be born of British parents, even though he be naturalized or made a denizen, is capable of being a member of the Privy Council), unlimited in number, appointed by the will of the sovereign. The dissolution of the Privy Council, or the dismissal of an individual member, depends upon the Queen's pleasure. The duration of the council is naturally during the life of the sovereign; but it is now continued, by 6 Anne c. 7, for six months further, unless dissolved by his successor. The present usage is for every privy councillor in one reign to be re-sworn at the commencement of the next. The Privy Council now generally includes the members of the royal family, the archbishops of Canterbury and York, the bishop of London, the

great officers of state, the lord chancellor and some of the superior judges, the speaker of the House of Commons, the ambassadors, the commander-in-chief, the master general of the ordnance, the first lord, with usually a junior lord, of the admiralty, and the members of the cabinet. There is in no case either salary or emolument attached to the office. The council collectively is styled "Her Majesty's Most Honourable Privy Council," and the members are entitled to the prefix of "Right Honourable." They rank after the Knights of the Garter, and on taking out his *dedimus* a privy councillor has the right of acting as a magistrate in any county. It is customary for the office to be held for life, but a large proportion of those who hold the honour are never summoned to actual counsel.

Privy Seal (or *Signet*). The Privy Seal is a seal of the sovereign under which charters, pardons, &c., signed by the sovereign pass before they come to the Great Seal; and it is also used for some documents of less consequence which do not pass the Great Seal at all, such as discharge of debts, &c.

Privy Seal, Lord. See "Keeper of the Privy Seal."

Prize Court. In case of prize vessels, taken in time of war, these matters formerly were the subject-matter of the jurisdiction of a separate court, called the Prize Court, which was constituted by a separate commission under the Great Seal, issued only in time of war. But the jurisdiction to decide all matters and questions concerning booty of war, or the distribution thereof, may now be referred to the Court of Admiralty.

Pro forma, for the sake of form.

Pro hac vice, for this occasion.

Pro interesse suo, for his own interest.

Pro rata, proportionately.

Pro tanto, as far as it will go, or good to a certain extent. Thus, if a tenant in chief, under a lease that has only five years to run, underlets upon a lease of seven years, such is a lease *pro tanto*, binding upon the parties until the end of the five years but void afterwards.

Pro tempore, for the time.

Probate, Court of. Before 1857, the Ecclesiastical Court was the only court in which the validity of wills of personal property, or of any testamentary paper whatever relating to personalty, could be established or disputed. By the Act 1857 (20 & 21 Vic. c. 77) this jurisdiction was transferred to the Court of Probate established by that Act. The consequence of this exclusive jurisdiction is that an executor cannot assert or

rely on his right in any other court, without showing that he has previously established it in the Court of Probate: the usual proof of which is the production of a copy of the will by which he is appointed, certified under the seal of the court. This is usually called the "probate" or the "letters testamentary." The court consists of a single judge, who takes rank and precedence with the Puisne Judges of Her Majesty's superior courts. An appeal lies from the judge of the Court of Probate to the House of Lords. Practically this court is called the Court of Probate and Divorce, as the judge of the probate court is also the judge ordinary of the court for divorce and matrimonial causes.

Proclamation. The right to issue proclamations is one of the prerogatives of the Crown. A proclamation in 1580 forbade the erection of houses within three miles of London. Though our monarchs thus far assumed this irregular power of issuing proclamations, yet they never pretended to have the power, by means of a proclamation, to alter the fundamental laws of the realm—to dictate any change, however trifling, in the code of private rights or in the penalties of criminal offences. Such changes have always been effected by statute. A proclamation is now binding on the subject where it does not either contradict the old laws or tend to establish new ones, but only enforce the execution of such laws as are already in being, in such manner as the sovereign shall deem necessary. Thus the established law of the realm is, that the sovereign may prohibit any of his subjects from leaving the realm; a proclamation, therefore, forbidding this in general, for three weeks, by laying an embargo upon all shipping in time of war, will be equally binding as an Act of Parliament, because founded on a prior law. Again, the sovereign has a statutory power of forbidding certain things by proclamation, which when so forbidden become illegal, as the importation or exportation of arms or ammunition.

Proctor. A person who, in the Ecclesiastical and Admiralty courts, discharges duties similar to those of attorneys and solicitors in other courts. By 20 & 21 Vic. c. 77, the Ecclesiastical and Admiralty courts were thrown open to attorneys and solicitors, and, on the other hand, proctors were allowed to practise in the Common Law and Equity courts.

Procuration is the authority of B. for acting as the agent of A. When the agent is paid, or entitled to be paid, for a specific agency, it is his procuration fee. (See "Per pro.")

Procurements are moneys payable by an incumbent upon the "visitation" of a bishop or archdeacon. Under an Act of 1860

(23 & 24 Vic. c. 121, sec. 2) such procurations are payable to the Ecclesiastical Commissioners.

Procurator. An agent; especially applied to the collector of the income of a benefice.

Procurator-Fiscal. The public prosecutor in inferior courts in Scotland, acting under the instructions of the Lord Advocate, who is the principal public prosecutor.

Prohibition is a writ directed to the judge of some inferior court forbidding him to proceed in any cause depending in his court, on the suggestion that the cognizance thereof belongs not to such court. It is the remedy provided by the common law against the encroachment of jurisdiction.

Promissory Notes. See "Bills."

Promoting the Office of Judge. This means moving to procure the intervention of the judge. It applies exclusively to proceedings in Ecclesiastical Courts.

Promotion Money is the amount due to a person or association for initiating a company.

Property, according to legal interpretation, is not a material possession, but the right to dominion over it, whether it be in possession or not.

Real Property is the right of dominion over a portion of the surface of the earth, which may be deputed to a tenant for a term, but is resumable at the end of the tenancy.

Personal Property is the right to control or personally appropriate any movable thing.

Property in Action, otherwise called a "chose or thing in action," is a deferred right of control or appropriation, to accrue in due course or in a certain event. The most familiar example of property in action is a debt which the owner cannot seize but is entitled to recover. A bill, while it is running and before it is recovered upon, is property in action.

Propound is to put forward or set up. The person who produces a will and expresses a determination to act upon it, is said to propound it. In this sense, every acting executor is a propounder.

Prosecution generally applies to the process of taking criminal proceedings; but the expression is very loosely used, so far as to admit of saying that an action is prosecuted.

Prosecutor, in familiar acceptation, means the person who primarily promotes criminal proceedings, but it may also be used to indicate the plaintiff in a civil action.

Protection Order. The Divorce Act of 1857 included a

provision which gave power to magistrates of granting a protection order to a deserted wife, depriving her husband of all rights with regard to her property and earnings, and endowing her with the same power with reference to her property as if she were single. Any wife who is deserted (not otherwise) is entitled, if she insists upon it, to such a protection order, as the law with regard to such proceedings is still in force. But the Married Women's Property Act of 1870 rendered such protection almost needless, and the Act of 1882 rendered it worthless; it being necessary to bear in mind that such an order applies only to property and not to personal relationships. (See "Husband and Wife.")

Protector, in law, applies to the person whose assent is necessary to a disentailment deed, to which he must be a party. His refusal to execute the deed acts as an effectual protection to the settlement, whereby the entailment must continue.

Protectorate. The period during which Oliver Cromwell ruled in this country.

Protest. Each peer has the right, by leave of the House, when a vote passes contrary to his sentiments, to enter his dissent on the journals of the House, with the reasons for such dissent; this is usually styled his protest. See also "Bills."

Protocol is the initiatory part or draft of a legal document. In recent years it has been applied to a preliminary memorandum intended as the basis of a diplomatic agreement or conference. In another sense it is the registered copy of a document, entered in the book of a notary for reference as evidence if required.

Prove, in legal phraseology, does not necessarily mean to demonstrate, but to produce conclusive evidence of. Thus, when a witness says "I went to Birmingham on that day," he is said to prove that he so went until the contrary is shown.

Provident Societies. See "Industrial Societies."

Proving a Will is the act of propounding a will, and giving the required evidence as to the validity of it which entitles an executor to probate.

Proviso is a condition upon which something else depends. It generally operates as a limitation of something, or may be a bar to it in certain events.

Proxy. Peers were formerly entitled to vote by proxy upon divisions in the House of Lords, but the right was abolished by a standing order of the House on the 31st of March, 1868. The system of voting by proxy is continued in full force and is expressly legalized in the case of public companies, each share-

holder being entitled to depute by proxy any other shareholder to vote on his behalf at any meeting of shareholders, or for any number of meetings within a stated time; but each proxy can only be used once, and must bear a penny stamp in the manner of a receipt, subject to a penalty of £10 for omission.

Public Health Acts were initiated by the Act of 1848 (11 & 12 Vic. c. 68), which for the first time extended systematic representative local government to places and districts not previously recognized as corporate towns. Various similar Acts succeeded the original, but they were all repealed and superseded by the Act of 1875 (38 & 39 Vic. c. 55), which elaborately provides for the government of all places outside the metropolis, and exclusive of incorporated towns; but they are subject to some of its provisions.

The Act includes definitions and provisions for constitution of districts and authorities; sewerage and drainage; disposal of sewage; privies, waterclosets, &c.; scavenging and cleansing; regulations as to streets and houses; offensive ditches and collections of matter; water supply; cellar dwellings and lodging-houses; houses let in lodgings; nuisances; offensive trades; unsound meat, &c.; infectious diseases and hospitals; prevention of epidemic diseases; mortuaries, &c.; highways and streets; lighting; public pleasure-grounds; markets; slaughter-houses; police regulations; contracts; purchase of lands; arbitration; bylaws; conduct of business; rating and borrowing powers; expenses of rural authority; audit; legal proceedings; alteration of areas and union of districts. The Act also defines the powers and functions of the Local Government Board with reference to districts where the Act operates.

An Act of 1878 (41 & 42 Vic. c. 25) was passed to amend the before-mentioned Act so far as relates to the supply of water. The provisions of this Act are very sweeping, and calculated to effect great changes, especially in rural districts. See also "Fruit Pickers."

Public Health Act, 1883. This Act was passed to make provision with respect to the support of public sewers and sewage works in mining districts.

Public Houses are governed by the Licensing Act of 1880 (43 & 44 Vic. c. 20), which is very long and elaborate, including such numerous details that they cannot be adequately referred to within the scope of these pages. They are fully entered into, together with other valuable information, in Ward and Lock's "Hand-Book of the Licensing Laws."

Wages in Public Houses. See "Wages."

Public Worship Regulation Act, 1874. This is the Act which Lord Beaconsfield declared was intended to put down ritualism. It makes original provision for proceedings to restrain or prevent any material departure from the ritual prescribed for public worship in the Church of England. The persons who are authorized to initiate proceedings with reference to a parish church are the archdeacon under whom the church is situated; any one churchwarden of the church; any three parishioners; or, in case of a cathedral or collegiate church, any three inhabitants of the diocese. The parishioners or inhabitants must, in either case, be of twelve months' standing. Proceedings must be first submitted to the bishop of the diocese, who possesses an unqualified veto; should he assent to continuance of the proceedings, the Act makes elaborate provision as to how they are to go on, with means of enforcement.

Pueritia is during the age of from seven to fourteen years.

Puffer. This is the designation of a person employed to make sham bids at an auction. At sales of personal property secret biddings vitiate any purchase: that is, if the purchaser, after purchase, discovers that he has been bidding against a puffer, he is entitled to repudiate his bidding and to recover any amount deposited; but, under an Act of 1867 (30 & 31 Vic. c. 48), secret biddings by a puffer are expressly legalized at sales of landed property, if the employment of any person to bid on behalf of the vendor is mentioned and reserved in the conditions of sale.

Puisne. Junior, inferior, lower in rank. The several judges of the High Court other than the chief are called puisne.

Purchase System in the Army. Prior to 1871 commissions in the army, except in the corps of artillery and engineers, might be bought, sold, or exchanged. A certain number of commissions were annually given away to successful competitors at the Military College at Sandhurst; but the holders of these commissions had to purchase their promotion, unless they were content to see themselves continually passed over. The prices of commissions were regulated by the Horse Guards authorities, and strict rules were made to prevent the payment of over-regulation prices. Nevertheless these extra prices were continually paid, and their payment was winked at by the authorities. Purchase of original commissions and promotions was abolished by a bill which passed the Commons in 1871, thrown out by the

Lords, but immediately embodied in a royal warrant; since which time the old purchase system has been done away with, though to some extent restored by the Regimental Exchanges Act.

Purging is making acceptable atonement for an offence.

Purveyance and Pre-emption was a right formerly enjoyed by the Crown of buying up provisions and other necessities, by the intervention of the royal purveyors, for the use of the royal household, at an appraised valuation in preference to all others, and even without the consent of the owners; and also of forcibly impressing the carriages and horses of the subject to do the sovereign's business on the public roads, in the conveyance of timber, baggage, and the like, however inconvenient to the proprietor, on paying him a settled price. The right is now totally abandoned, but it is doubtful whether it is abolished.

Purview is the part of an Act of Parliament beginning with "Be it enacted." In modern times the word has been used to denote the scope of an Act of Parliament.

Putative Father is he who is adjudged to be the father of a child.

Quarantine, literally meaning forty days, has got to be recognized (irrespective of time) as the state of probation during which a ship is compelled to remain at a certain place to avoid infection being introduced by the crew or passengers. Anciently the term applied to the forty days during which a widow was entitled to remain in her late husband's house immediately after his death, which is an obsolete custom.

Quare impedit is a real possessory action to recover a presentation to a benefice when the patron's right is disturbed, or when the right to the advowson is disputed.

Quarter-Days. Unless otherwise expressly provided, quarter-days are defined as Lady Day, March 25; Midsummer Day, June 24; Michaelmas Day, Sept. 29; Christmas Day, Dec. 25.

Quarter Sessions of the Peace, The Court of General. This is a court which must be held, in every county, once in every quarter of a year; and by statute 11 Geo. IV. and 1 Will. IV. c. 70, sec. 35, the quarter sessions are appointed to be held in the first week after October 11; the first week after December 28; the first week after March 31, and the first week after June 24. This court is held before two or more justices of the peace; and generally includes a considerable number of leading county magistrates. Its jurisdiction, by 24 Edward III. c. 1, extends in general to the trying and determining of all felonies and

trespasses whatever committed within the county; but it has never been usual to try there any greater offences than small felonies; their commission providing that if any case of difficulty arises they shall not proceed to judgment, but in the presence of one of the justices of the High Court of Judicature, which usually implies trial at the county assizes, and therefore murders and other capital felonies have been usually remitted for trial at the assizes. It is now expressly provided by statute, that this court shall not try any prisoner for treason, murder, or capital felony; or for any felony which, when committed by any person not previously convicted of felony, is punishable with penal servitude for life; or for any of the following crimes: 1. Misprison of treason. 2. Offences against the Queen's title, prerogative, or government, or against either House of Parliament. 3. Offences subject to the penalties of *praemunire*. 4. Blasphemy and offences against religion. 5. Administering or taking unlawful oaths. 6. Perjury and subornation of perjury. 7. Making or suborning false oaths, &c., punishable as perjuries or misdemeanors. 8. Forgery. 9. Maliciously firing corn, grain, wood, &c. 10. Bigamy and offences against the laws relating to marriage. 11. Abduction of women and girls. 12. Concealing of births. 13. Offences against the bankrupt laws. 14. Seditious, blasphemous, or defamatory libels. 15. Bribery. 16. Unlawful combinations and conspiracies, with certain exceptions. 17. Stealing &c. of records, &c. 18. Stealing &c. of bills &c., and written documents relating to real estates. They are further restrained from trying persons charged with fraudulent practices—as *agents, trustees, bankers, or factors*, under the Larceny Act of 1861. It is a general principle that this court cannot try any newly created offence, without express power given to it by the statute which creates such offence. But there are many offences and particular matters which by particular statutes belong properly to this jurisdiction and ought to be prosecuted in this court—as the smaller misdemeanors and felonies, offences relating to game (except that by 9 Geo. IV. c. 69 this court is restrained from trying the offence of three or more persons pursuing game by night), highways, alehouses, bastard children, the settlement and provision for the poor, servants' wages, and apprentices. Some of these are proceeded upon by indictment; others by way of *appeal* from the orders or convictions of justices out of sessions; and others in a summary way by motion and order thereupon. These orders of the Court of Quarter Sessions may for the most part be removed into the Queen's Bench

Division by writ of *certiorari*, and be there either quashed or confirmed.

As regards the county of Middlesex in particular—it was provided by 7 & 8 Vic. c. 71 (amended by 22 & 23 Vic. c. 4) that there shall be holden for that county two sessions, or adjourned sessions, of the peace in every calendar month; and that the first session in January, April, July, and October respectively, shall be the general quarter sessions of the county, and that the second sessions in those months shall be adjournments of the general quarter sessions. It was also provided that Her Majesty might appoint a person—being a sergeant, or a barrister of ten years' standing and qualified by law to act as justice of the peace for the county, to be assistant-judge of the court—to preside at the hearing of all appeals, or the trials of all felonies and misdemeanours, and all matters connected therewith.

In many corporate towns or boroughs, there is also a court of quarter sessions of the peace, having in general the same authority in cases arising within the limits of the borough, as the county quarter sessions have within the county. In such court the recorder is, by 5 & 6 Will IV. c. 73, sec. 105, to be the sole judge; and he is thereby directed to hold such court once in every quarter of the year; or at such other and more frequent times as in his discretion he may think fit, or Her Majesty may direct. All the restrictions imposed on the jurisdiction of the county quarter sessions apply equally to borough sessions.

Quash is when prior proceedings are rendered null and void by the judgment of a superior court to that effect.

Quasi is an expression that implies something. Thus, if A. asks B. to deliver a letter to C., and B. accepts the letter but says nothing, and goes away with the letter, he has entered into a *quasi* contract to deliver the letter to C., though he never formally promised to do so. Should B. fail to deliver the letter, and any injury should consequently result to A., then B. is as responsible as if he had ever so solemnly undertaken the delivery. In like manner, every person who accepts an office is liable on his *quasi* contract to fulfil all the duties of such office, which applies very forcibly to every executor and every trustee.

Queen Anne's Bounty. Prior to the Reformation the Holy See had established two taxes on the English clergy—that of firstfruits (*primitiæ* or *annates*) and that of tenths or *decimæ*. The former was the first year's whole profits of the spiritual preferment; the latter were the tenth part of the annual profits

of each living. When the supremacy of the Pope was abolished and that of the king in matters ecclesiastical substituted, in the reign of Henry VIII., this revenue was annexed to the Crown. This was done by statute 26 Hen. VIII. c. 3. By this statute (confirmed by 1 Eliz. c. 4) it was enacted, that commissioners should be appointed in every diocese to certify the value of every ecclesiastical benefice and preferment, and that according to this valuation the firstfruits and tenths should be paid in future. This *Valor Beneficiorum* was accordingly made, and is that commonly called "the King's Books," by which the clergy are at present rated. By these last-mentioned statutes all vicarages under ten pounds a year, and all rectories under ten marks, are discharged from the payment of firstfruits; and if in such livings as continue chargeable with this payment, the incumbent lives but half a year after his institution, he shall pay only one quarter of his first-fruits; if but one whole year, then half of them; if a year and a half, three-quarters; and if two years, then the whole. The archbishops and bishops have four years allowed for the payment, and shall pay one quarter every year, if they live so long upon the bishopric. But other dignitaries of the church pay upon the same principle as vicars and rectors. Likewise, by the same statute of 27 Hen. VIII. c. 8, no tenths are to be paid for the first year, for then the first-fruits are due; and by other statutes of Queen Anne, if a benefice be under £50 per annum clear yearly value, it shall be discharged of the payment of first-fruits and tenths. Queen Anne restored to the Church what had thus been indirectly taken from it. This she did, not by remitting the first-fruits and tenths entirely, but by applying these superfluities of the larger benefices to make up the deficiencies of the smaller. To this end she granted a royal charter, which was confirmed by statute 2 & 3 Anne c. 11, whereby all the revenue of first-fruits and tenths is vested in trustees for ever, to form a perpetual fund for the augmentation of poor livings. This is usually called Queen Anne's Bounty, which has been still further regulated by subsequent statutes.

Queen Consort. The wife of the reigning king. She is a public person, exempt and distinct from the king, being always able to purchase lands and to convey them, to make leases, grant copyholds, and do other acts of ownership, without the concurrence of her husband. She has separate courts and offices distinct from those of the king, not only in matters of ceremony, but even of law; and her attorney and solicitor-general are entitled to a place within the bar of His Majesty's courts, together

with the king's counsel. As to the security of her life and person, she is placed on the same footing as the king.

Queen's Advocate. A member of the College of Advocates, appointed by letters-patent, whose duty it is to advise and act as counsel for the Crown in questions of civil, canon, and international law. His rank is not fully settled, but he claims precedence of the whole bar.

Queen's Bench. The Court of Queen's Bench, which had a separate constitution of its own prior to November, 1875, became a division of the High Court of Justice under the Judicature Act which came into force at the date named.

Queen's Counsel is a barrister so appointed.

Queen's Evidence. An accomplice to whom a hope is held out that, if he will fairly disclose the whole truth as a witness on a trial, and bring the other offenders to justice, he shall himself escape punishment. A jury may, if they think fit, convict on the unsupported evidence of an accomplice.

Queen's Proctor is the representative of the Crown in the Divorce Court. It is his duty to intervene to quash proceedings in divorce cases when he is informed that the divorce has been procured in contravention of the law.

Quest is tantamount to inquest, search, or inquiry.

Questman. A sidesman or churchwarden.

Quia Emptores is the statute 18 Edward I. c. 1 which is celebrated as having laid the foundation of the present law of freehold land in England. The study of its provisions is important to the law student, but is otherwise of no practical value.

Quit Rent is a payment to the lord of a manor in lieu of ancient services, whereby the lord of the manor and the copyholder are quits.

Quoad, in respect of.

Quoad Hoc, in respect of this matter.

Quo Animo, with what intention?

Quo Jure, by what right?

Quo Warranto is a writ of right for the Crown, against him who claims or usurps any office, franchise, or liberty, to inquire by what authority he supports his claim, in order to determine the right.

Race Courses. The Racecourses Licensing Act, 1879 (42 & 43 Vic. c. 18) renders horse races unlawful within ten miles of London unless licensed. Power is given to grant licences at Michaelmas quarter sessions for the year commencing on the

following 25th of March. Every person who takes part in an unlicensed horse-race contrary to the foregoing provisions is liable to a penalty of £10, or imprisonment for two months. Owners of land permitting unlicensed races are liable to a penalty of £25 and imprisonment for three months, and every person taking part is liable to additional proceedings for committing a nuisance.

Rack-Rent is the utmost rent that can be obtained.

Radicals. The name given to a political party. It was first applied in 1818, when Hunt, Cartwright, and other popular leaders sought to obtain a radical reform in the representative system in parliament.

Railways. The law with reference to railways is for the most part contained in the Acts enumerated in the following list:—

- 1 & 2 Vic. c. 98—Conveyance of Mails.
- 3 & 4 Vic. c. 97—Returns of Tolls, Bylaws, Punishment of Servants, and Trespassers.
- 5 & 6 Vic. c. 55—Conferring Powers on Board of Trade.
- 5 & 6 Vic. c. 78—Passenger Duty. (Repealed in favour of Act of 1883).
- 7 & 8 Vic. c. 85—Government Purchase and Revision of Tolls, Cheap Trains (see 1883), Conveyance of Troops, Board of Trade Prosecutions, Lloyd's Bonds.
- 8 Vic. c. 20—Railway Clauses Consolidation Act, 1845, dealing with Powers of Construction, Compulsory Acquisition of Land, &c.
- 9 & 10 Vic. c. 57—Regulation of Gauge.
- 13 & 14 Vic. c. 83—Railway Abandonment.
- 14 & 15 Vic. c. 64—Supersession of Commissioners of Railways by Board of Trade.
- 17 & 18 Vic. c. 31—Railway and Canal Traffic Act, 1854.
- 21 & 22 Vic. c. 75—Charge for Fractions of a Mile by Cheap Trains.
- 22 & 23 Vic. c. 59—Railway Companies Arbitration Act, 1859.
- 25 & 26 Vic. c. ccxxiii.—Great Eastern Railway Act, 1862.
- 26 & 26 Vic. c. 92—Railway Clauses Act, 1863, supplementary to 8 Vic. c. 20, especially dealing with level crossings and junctions.
- 27 & 28 Vic. c. 120—Railway Companies Powers Act, 1864.
- 27 & 28 Vic. c. 121—Railways Construction Facilities Act, 1864.
- 29 & 30 Vic. c. 108—Railway Companies Securities Act, 1866.
- 30 & 31 Vic. c. 127—Railway Companies Act, 1867, dealing with Insolvent Companies, Protecting Rolling Stock from Execution, &c.
- 31 & 32 Vic. c. 119—Regulation of Railways Act, 1868, a very elaborate and comprehensive Act.
- 32 & 33 Vic. c. 114—Railway Abandonment.
- 33 & 34 Vic. c. 19—Powers of Construction.
- 34 & 35 Vic. c. 78—Regulation, Inspection, Returns of Accidents.
- 35 & 36 Vic. c. 50—Protection of Rolling Stock from Distress.
- 36 & 37 Vic. c. 43—Indian Railways.
- 36 & 37 Vic. c. 48—Regulation, Appointment of Railway Commissioners, numerous and elaborate provisions.

36 & 37 Vic. c. 76—Returns of Signal Arrangements, Working, &c.

37 & 38 Vic. c. 40—Arbitrations.

38 & 39 Vic. c. 31—Protection of Rolling Stock from Execution.

41 Vic. c. 20—Returns of Continuous Brakes.

42 & 43 Vic. c. 56—Continuance of Powers of Railway Commissioners.

46 & 47 Vic. c. 34 (1883)—Passenger Duty, Cheap Trains, Conveyance of Troops and other Forces. This Act abolishes the passenger duty with respect to all fares not exceeding one penny per mile, and reduces the duty on higher fares in urban districts to two per cent. All others fares remaining at five per cent. as originally imposed.

Leading Provisions. Amongst the very numerous provisions contained in the before-mentioned Acts, the following demand special mention. The Railway Clauses Consolidation Act, 1875, and the Railway and Canal Traffic Act, 1854, are prominently important. The former relates mainly to the taking of private lands by a railway company for purposes of the undertaking, and the course of procedure to be adopted in such a case. The latter is directed principally to the regulation of the traffic on the railway when completed, and to provide that railway companies shall make arrangements for receiving and forwarding traffic, without unreasonable delay, and without making or giving any undue or unreasonable preference or advantage to or in favour of any particular person or company, or any particular description of traffic. Under various of the others Acts, the general supervision and regulation of railways is intrusted to the Board of Trade; and it is made unlawful to open a railway or portion of railway, for the public conveyance of passengers, until a month's notice in writing shall have been given to the board, by the company to which the railway may belong, of their intention to open the same, and ten days' notice of the time when the railway will be open for inspection. The Board of Trade may postpone the opening of any railway until satisfied that it may be opened with safety to the public. Powers are given to the board to order returns to be made to it of the aggregate traffic in passengers, cattle, and goods, of the occurrence of any serious accident, and of all tolls and rates from time to time levied. The board may also appoint fit persons to be inspectors of railways. Every railway company is also required (whether called upon to do so or not) to report to the Board of Trade the occurrence of any accident attended with serious personal injury within forty-eight hours of its occurrence; and to lay before the board, for its approbation, certified copies of the bylaws and regulations by which they are governed; which bylaws may be disallowed by the board, and none of which have any force unless

Rebutter is a process in the course of an action by which the defendant, having first demurred, and his demurrer being answered, endeavours to rebut the answer.

Rebutting Evidence is that which is given to upset an allegation that is not conclusively proved.

Receipt is a written memorandum of the payment of money. If for £2 or upwards it must bear a stamp, the penalty for omitting which is £10.

Receiver. An office of the Chancery Division to collect rents, &c., pending a suit.

Recital is that part of a deed which recites or enumerates the facts upon which the deed is founded.

Recognizance. An obligation of record which a man enters into before some court or magistrate duly authorized, acknowledging himself to owe the Queen, or a private plaintiff (as the case may be), a certain sum of money, with condition to be void if he shall do some particular act—as if he shall appear at the assizes, keep the peace, pay a certain debt, or the like. When recognizances are forfeited they are estreated (that is, extracted or taken out from among the other records) and sent up to the High Court, there to be enforced. But recognizances forfeited and ordered to be enforced by a court of quarter sessions, or of gaol delivery, are levied by the sheriff, and returned by the clerk of the peace to the Lords of the Treasury.

Record, The, in a civil action, is a history of the most material proceedings in the cause entered on a parchment roll, and continued down to the present time; in which must be stated the writ of summons, all the pleadings and whatever further proceedings may have been had, all entered verbatim on the roll.

Record, Court of. Some courts are courts of record, others not of record. A court of record is one where the acts and judicial proceedings are enrolled in parchment, for a perpetual memorial and testimony: which rolls are called the records of the court, and are of such high and supereminent authority, that their truth is not to be called in question. For it is a settled rule and maxim that nothing shall be averred against a record, nor shall any plea, or even proof, be admitted to the contrary. And if the existence of a record be denied, it can be tried by nothing but itself—that is, upon bare inspection whether there be such a record or no. All courts of record are courts of the sovereign, in right of the Crown and royal

dignity; and therefore every court of record has authority to fine and imprison for contempt of its authority; while, on the other hand, the very erection of a new jurisdiction, with power of fine or imprisonment, makes it instantly a court of record. But the courts not of record, or those of them at least in which the common law is not administered, are of inferior dignity, and in a less proper sense the king's court—and these are not intrusted by the law with any power to fine or imprison the subjects of the realm, unless by the express provision of some Act of Parliament. In these also the proceedings are not enrolled or recorded; but as well their existence as the truth of the matters therein contained shall, if disputed, be tried and determined by a jury.

Recorder. Besides the prescriptive borough courts of quarter sessions, the Crown is empowered by the Municipal Corporations Act (5 & 6 Will. IV. c. 76), on the petition of the council of any borough setting forth certain matters therein mentioned, to grant a separate court of quarter sessions of the peace to be holden in such borough, and to appoint a barrister of not less than five years' standing to be the recorder of such borough (or of that and one or more other boroughs jointly), who is thereupon an *ex officio* justice of the peace for such borough. This court, which is to be held once in every quarter of the year at least, and in which the recorder sits as the sole judge, is a court of record, and has cognizance of all offences and matters cognizable by any court of quarter sessions for counties; except that the recorder cannot make a county rate nor grant licences.

Recorder of London. One of the justices commissioned to preside at the Central Criminal Court. He is a justice of the peace of the quorum for putting the laws in execution for the preservation of the peace and government of the city. He delivers the sentences and judgments of the courts within the city, and also certifies and records the city customs. He usually presides in the Lord Mayor's Court. He is chosen by the lord mayor and aldermen, and attends the business of the city when summoned.

Recreation Grounds. These are specially provided for in the Commons Act, 1876 (39 & 40 Vic. c. 56), and the Amendment thereof, 1879 (42 & 43 Vic. c. 37).

Rector is the designation of one who has full and undivided ecclesiastical authority in a parish, including an undivided right to all the tithes. The title combines clerical duties with

absolute right in the property of the benefice. On the contrary, where the incumbent is called the vicar, it generally implies that there is a lay rector who is entitled to some or all of the tithes where there are any. In these respects the circumstances of parishes differ without limit.

Recusants. This is the designation of all persons who, having been members of the Established Church, become non-conformists.

Reddendum is the part of a lease which provides for the payment of rent.

Reddition is an acknowledgment that a certain thing belongs to another, which may be evidenced by delivery or declaration in any form.

Redemption is the recovery back of property in pawn, or the extinguishment of a security by paying the money or fulfilling the condition subject to which it was given. Thus, when a borrower repays the money advanced upon an I O U, he is said to redeem it. Unless there is some very emphatic *proviso* to the contrary, every mortgagor is entitled to redeem the mortgage, which is called the equity of redemption.

Redemption of Land Tax is the payment down of a capital sum to free any given property from future land tax.

Reduction into Possession is a recognized phrase signifying in general the realization of an asset. When a depositor withdraws a deposit, or a creditor obtains a payment, he is said to reduce it into possession, whereby it is *in possession* as contradistinguished from *in action*.

Referee is a person to whom the decision of some point of dispute is referred. The designation has become of increased importance of late years, several Acts of Parliament having instituted official referees; and this is continued and confirmed by the Judicature Act, 1873, which empowers any judge of the High Court to refer a matter to an official referee, whose duty it is to hear evidence and report thereon, the court being at liberty to reject or adopt the report, the latter being equivalent to a judgment of the court.

Reference is a noun descriptive of the matter referred to an arbitrator, together with the conditions, to which the arbitrator is bound to adhere. He must not go outside the precise terms of the reference. This is very important in the preparation of arbitration, as, generally speaking, the reference cannot be amended.

Reform Acts. Two Acts, passed respectively in 1832 and

1867, for reforming the representation of the people in parliament. They are respectively the 2 Will. IV. c. 45, and 30 & 31 Vic. c. 102. The former increased the number of county members for England and Wales from ninety-five to one hundred and fifty-nine, and the number of members for the metropolis and its adjacent districts to eighteen. Fifty-six parliamentary boroughs were wholly, and thirty-one partially, disfranchised; and forty-three new boroughs were created, twenty-two of which return two members, and twenty-one one member each. With respect to the county franchise, the old forty-shilling freeholders were retained, except freeholders for life in certain cases, where the amount of yearly value required is £10. But three other great classes of voters were introduced: copyholders of £10 a year; leaseholders, if lessees or assignees, of a term of sixty years, of £10 yearly value; if of a term of twenty years, of £50 yearly value; and the sub-lessees or assignees of under-leases, respectively of the yearly value of £10 and £50, subject to conditions as to length of possession; occupying tenants, without reference to the length of time for which the tenancy was created, but at a yearly rent of £50, and subject to a condition as to the length of time during which the occupation has continued. No condition of residence was imposed on county voters. In cities and boroughs some ancient rights were reserved, but subject to important restrictions as to residence. But the great feature of this Act was the new household franchise which it introduced and gave to £10 householders, subject, however, to conditions as to residence and payment of rates, and liable to be temporarily lost by the receipt of parish relief. The Act also abolished a good many old qualifications, though it reserved some for ever, and others for the lives of those who were then in enjoyment of them. By the Act of 1867 it was provided that no borough having a less population than 10,000 at the census of 1861 should return more than one member. The boroughs, thirty-eight in number, which had up to that time returned two members, but which thus lost one member, are enumerated in schedule A of the Act. A third member was given to Manchester, Liverpool, Birmingham, and Leeds. Ten new boroughs were created, of which nine are to return one member each, and the tenth (Chelsea) two members. A second member was given to Morthyr Tydfil and Salford, and the Tower Hamlets were divided into the Tower Hamlets and the borough of Hackney, each division to return two members. Certain counties were sub-divided, and two members were given to each sub-

division. One member was given to the University of London. Certain alterations were also made in the borough and county franchise; in the case of the former, by the introduction of the household and lodger franchise; in the case of the latter, by the introduction of the £12 occupation franchise, and holders of building leases at £5 per annum. In each case the occupation franchise was made subject to certain conditions as to residence and payment of rates.

Reformatory Schools. By 17 & 18 Vic. c. 86, 18 & 19 Vic. c. 87, 19 & 20 Vic. c. 109, and 20 & 21 Vic. c. 55, it is provided that the Secretary of State for the Home Department may, upon application made to him by the directors or managers of any school or institution for the better training of juvenile offenders, established by voluntary contributions in Great Britain, direct one of Her Majesty's Inspectors of Prisons to examine and report to him upon such institution; and may certify under his hand and seal that any such school or institution is useful and sufficient for its purpose. And that it shall be lawful for any court, magistrate, or justice, before whom any person under the age of sixteen shall be convicted and sentenced to receive any punishment to the extent of fourteen days' imprisonment at the least, to direct that, in addition to such punishment, such person shall be sent to any such institution (duly certified as aforesaid, and the directors or managers of which may be willing to receive such offender) as may then, or before the expiration of the imprisonment, be directed by the chairman or deputy-chairman of the court, or by the judge or magistrate. And that an offender so sent may be ordered to be there detained for a period of not less than two, nor more than five years; and that the parent or step-parent, if of sufficient ability, shall be liable to contribute to his or her support or maintenance, such sum not exceeding five shillings a week as the justices or magistrate passing sentence may think reasonable. But it is directed that the Secretary of State may at any time order a discharge from the institution.

Refresher is described as a supplementary fee paid to a barrister to refresh his memory concerning a matter where an interval of delay in the proceedings may be a reasonable excuse for having forgotten the merits of the case. In practice, it usually means that when the hearing of a case extends beyond one day, counsel requires an additional fee every morning before resuming his duty towards his client.

Refreshment Houses are defined by 23 Vic. c. 27 to be

"houses, shops, rooms, or buildings, kept open for public refreshment, resort, or entertainment, at any time between ten at night and five in the morning, not being licensed for the sale of beer, cider, wine, or spirits respectively," and to keep such refreshment houses it is made necessary to obtain an excise licence bearing an excise duty; and no unlawful gaming or disorderly persons shall knowingly be allowed there under a penalty; and constables and police-officers are empowered to enter the same as often as they think proper. It is also provided that any person who shall be so licensed to keep a refreshment house, and shall pursue therein the business of a confectioner—or who shall keep open such house for the purpose of selling, to be consumed therein, animal or other victuals, wherewith wine or fermented liquors are usually drunk—shall be entitled (subject to the terms of the Act) to take out another sort of excise licence, bearing an excise duty, viz., a licence to sell foreign wine by retail in such house, to be consumed on the premises, without having any other licence or authority in that behalf. But to obtain the excise licence, he must sign a requisition to be forwarded by the Board of Inland Revenue to the justices of the court of petty sessions holden for the place where the house is situated; and such justices are empowered to object to the granting of the licence if, on the ground of character or otherwise, there is found to be any sufficient objection. It is further provided (without reference to refreshment houses) that any person keeping a shop for the sale of goods or commodities shall be entitled to take out another sort of excise licence, to sell therein foreign and British wine by retail; but in reputed quart and pint bottles only, and not to be consumed in the shop. It is one of the regulations of the Act, among many others, that when any person shall be licensed under it to sell wine by retail, his house shall not be open for the sale or consumption therein of any article whatever at any time during which the houses of licensed victuallers are required to be closed, viz., Sunday, Good Friday, or Christmas Day, or any day appointed for public fast or thanksgiving. Subsequent provisions permit refreshment houses to be open without licence from five in the morning till ten in the evening. Licensed refreshment houses are subject to the same rules for closing at night as public houses.

Regal Fishes. Whales and sturgeons are so called, because when cast on the beach they become the property of the Crown.

Regard, Court of. One of the courts of the Forest, held

every third year, for the carving or expeditation of dogs, to prevent them from chasing the deer.

Regardant. Villeins were either regardant—that is, attached to a particular place—or in gross.

Regent. The sovereign cannot, in judgment of law, as sovereign, ever be a minor or under age. It has, however, been usually thought prudent, when the heir apparent has been very young, to appoint a guardian or regent for a limited time. The methods of appointing this guardian or regent have been so various, and the duration of his power so uncertain, that from hence alone it may be collected that his office is unknown to the common law; and therefore the surest way is to have him appointed by parliament. The Earl of Pembroke, by his own authority, assumed in very troublesome times the regency of Henry III., who at his accession was only nine years old. This king was declared of full age by the Pope at seventeen; he confirmed the great charter at eighteen, and took upon himself the administration of the government at twenty. A guardian and council of regency were named for Edward III. by the parliament which deposed his father, the young king being then fifteen years old and not assuming the government till three years after. When Richard II. succeeded at the age of eleven, the Duke of Lancaster, his uncle, took upon him the government of the kingdom till the parliament met, when a nominal council was appointed to assist him, but no regular regent was named. Henry V. on his death-bed appointed a regent and guardian for his infant son, Henry VI., then only nine months old; but the parliament refused to acknowledge the validity of this appointment, and named a protector or guardian, with limited authority and under the control of a council. Both these princes remained in a state of pupillage till the age of twenty-three. Edward V. at the age of thirteen was recommended by his father to the care of his uncle, the Duke of Gloucester, who was declared protector by the privy council. The statute of 28 Hen. VIII. c. 7 provided that the successor, if a male and under eighteen, or if a female and under sixteen, should be until such age in the government of his or her natural mother (if approved by the king) and such other councillors as His Majesty should by will or otherwise appoint; and the king accordingly appointed his sixteen executors to have the government of his son Edward VI. and the kingdom. These executors elected the Earl of Hertford protector. The statute 24 Geo. II. c. 24—in case the Crown should descend to any of the children of

Frederick, Prince of Wales, under the age of eighteen—appointed as guardian and regent the Dowager Princess of Wales. The Act 5 Geo. II. c. 27, in case of a like descent to any of His Majesty's children, empowered the king to name either the queen, the princess dowager, or any descendant of Geo. II. residing in this kingdom, to be guardian or regent till the successor should reach the age of eighteen, assisted by a council of regency. By 1 Will. IV. c. 2 the late Duchess of Kent was named as guardian and regent in the event of the present Queen coming to the throne before attaining the age of eighteen. The same course was afterwards taken, in favour of the late Prince Consort, with reference to the possibility of Her Majesty's demise leaving issue who might come to the throne under the age of eighteen. When the mental malady of George III. first showed itself, a great contest took place in parliament with reference to the appointment of a regent. The opposition leaders, between whom and the then Prince of Wales a close confederacy existed, insisted on the right of the prince to be appointed regent. Pitt and his colleagues could not object to the appointment, but they strenuously opposed the doctrine that any particular person had a right to the office. While the matter was still under debate, George III. recovered. When that king subsequently became permanently imbecile, the heir apparent (afterwards George IV.) was appointed regent, and held the office till, on the death of his father, he succeeded to the Crown.

Regimental Exchanges Act. This Act was passed in 1875 (38 Vic. c. 16) to permit officers in the army to exchange from one regiment to another, subject to current regulations. The effect of the Act is to restore to some extent the system of purchase of commissions, which had previously been abolished by royal warrant.

Registrars and Registration. Until not very long ago the only system of registration of births, deaths, and marriages was under the superintendence of the parochial clergy. The system of ecclesiastical registration is said to be coeval with the Protestant Church, having been first established by Cromwell, Lord Vicegerent, in the 30th year of Henry VIII., 1538. Various enactments for its confirmation were passed in succeeding reigns; and by a canon in the time of James I. still in force, and by several statutes, particularly 52 Geo. III. c. 146, further provisions were made for its regulation. This system, so far as it relates to the registry of marriages, was repealed by the intro-

duction of the civil method hereafter to be described ; but it still remains in force as regards baptisms and burials, and provides that registers of public and private baptisms and burials, solemnized according to the rites of the Established Church, in any parish or chapelry in England, shall be made by the rector, vicar, curate, or other officiating minister of the parish, in books of parchment or durable paper, wherein such particulars shall be inscribed, within seven days at the latest after the ceremony, and in such form and manner as by the schedule to the Act annexed is set forth.

As to the civil mode of registration, the ecclesiastical registers being commemorative not of births and deaths generally, but only of such as are attended by the proper ceremonies of the Church, an Act was passed in 1834 for forming a complete register of all births, marriages, and deaths.* This Act, the 6 & 7 Will. IV. c. 86 (considered as one Act with 6 & 7 Will. IV. c. 85, intituled "An Act for Marriages in England"), together with 7 Will. IV., and 1 Vic. c. 22 and 21 & 22 Vic. c. 25, provide that the guardians of every poor-law union throughout England and Wales—or the Poor Law Board in the case of places not possessing a board of guardians—are directed to divide the union or parish of which they have the care into as many districts as they shall think proper (subject, in the case of a division by guardians, to the approval of the registrar-general), each of which districts is to be called by a distinct name, and shall possess a registrar who shall be resident therein. The registrars of each union are subjected to the supervision of the "Superintendent Registrar," an office to be filled as of right by the clerk to the guardians of the union during the pleasure of the registrar-general. These superintendent registrars are in their turn subjected to the authority of an officer, to be appointed under the Great Seal, and to hold office during the pleasure of the Crown, called "The Registrar-General of Births, Deaths, and Marriages in England," to whom, subject to such regulations as shall be made by a principal Secretary of State, the general superintendence of the whole system and the practical details (where no specific directions are given by the Acts) are intrusted. Provision is also made by the Acts for the establishment of a proper office, to be called "The General Register Office," and of register offices for each union (to be placed under their respective superintendents) for the preservation and safe custody of the registers when collected. And the Acts also contain regulations as to the uniform construction

and durable materials of the books, wherein the entries are to be made. (As to the duties of the registrars with respect to *births*, *deaths*, and *marriages*, see those titles respectively.) It is further provided that four times in every year each district registrar shall deliver to his superintendent a certified copy of all the entries made by him, and finally the register itself on the book being filled. And that the superintendent, at the same intervals, shall transmit the same to the registrar-general. The duties of this last-mentioned officer, into whose hands the documents thus ultimately fall, consist—in addition to the general supervision of the working of the whole system—in examining, arranging, and indexing the certified copies so sent; and also in compiling abstracts of their contents, to be transmitted once a year to a principal Secretary of State, by whom such abstracts are to be afterwards laid before parliament.

At the time of the introduction of this new system, certain commissioners were appointed for inquiring into the state and authenticity of any registers (other than parochial) which at that time existed. This commission succeeded, in the course of a few years, in discovering about 7,000 which were deemed authentic; and the documents so discovered were, by 3 & 4 Vic. c. 92, placed under the care of the registrar-general, together with the records of the marriages and baptisms heretofore performed in the Fleet and King's Bench prisons, and at other irregular places. And the same statute provides that all registers and records deposited in the General Register Office under that Act, except such registers as therein particularized of marriages and baptisms at the Fleet and elsewhere, shall be deemed in legal custody; and shall be receivable in evidence in all courts of justice, subject to the provisions of that Act.

An Act of 1874 (37 & 38 Vic. c. 88) was passed to amend the law relating to the registration of births and deaths in England, and to consolidate the law respecting the registration of births and deaths at sea. (See also "*Friendly Societies*," "*Newspapers*," and the next title.)

Registration, Parliamentary. Registration is in all cases necessary to entitle a voter to exercise the parliamentary franchise. For the purpose of forming a register of voters for counties, the clerk of the peace for every county, on or before the 10th of June in every year, transmits to the overseers of every parish or township in the county his precept in the nature of a form of instruction to the overseers, informing them of the nature of their duties in the county registration, together with

a certain number of statutory forms. For the purpose of forming registers of voters for cities and boroughs, the town clerk of every city and borough, on or before the 10th of June, issues his precept to the overseers of every parish and township wholly or in part within the borough. Each precept is to be accompanied with a sufficient number of printed statutory forms. The town clerk is also required himself to make a list of the freemen entitled to vote for the borough. The overseers in counties, on receiving the precept, give notice to voters not on the register to send in their claims, and with such notice they are to publish a copy of the register then in force relating to the parish. Such claims are to be made on or before July 20th; and the overseers are, on or before the last day of July, to make an alphabetical list of all persons who have sent in their claims. With regard to the £12 occupiers introduced by the Reform Act of 1867, the overseers are to make up a list of them from the rate-book. They are to omit from either list the name of any person who has received parochial relief during the past year. The overseers then up to the 1st of September are to receive any notices of objection that may be given to any persons being retained on the lists, and are on the 1st of September to make and publish a list of all persons against whom they have received notice of objection. Any person omitted from the list of rated £12 occupiers made up by the overseers may send in his claim up to the 25th of August to have his name inserted. The overseers are then, on or before the 1st of September, to transmit all these lists, &c., to the clerk of the peace. The overseers in boroughs, on receiving the precept from the town clerk, are required, on or before June 20th, to publish a notice in writing that no person will be entitled to have his name inserted in any list of voters in respect of the occupation of premises (other than dwelling-houses) of the yearly value of £10, unless he shall pay, on or before the next 20th day of July, all the poor-rates and assessed taxes payable for such premises previous to the preceding 5th of January. On or before the 22nd of July they are to make out a list of persons who have not, by the 20th inst., paid such poor-rates, and which list is to be perusable by any person for the next fortnight. On or before the 31st of July, they are to make out a list of the occupiers of dwelling-houses who have been such for twelve months preceding the 31st of July and have been rated and have paid all rates up to the preceding 5th of January. On or before the same day they are also to make out an alphabetical list of persons entitled to vote in respect of the occupation

of premises, other than dwelling-houses, of the annual value of £10 ; and if there are voters (other than freemen) having reserved rights under the Reform Act of 1832, they are to make an alphabetical list of such persons. From the list made out by them, the overseers are to omit the names of any persons who have received parochial relief during the past year. On or before the 1st of August written or printed copies of both these lists, signed by the overseers, are to be published as directed. The overseers are further required to make a list of all persons who have claimed, in the mode prescribed, to have their names inserted in the list of voters. They are also to make lists of all persons objected to. These lists are also to be published on or before Sept. 1st. On the same day they are also to publish a list of persons claiming to vote for lodgings. With regard to publication, the list, &c., when published by overseers, is to be fixed in some public and conspicuous situation, on the outside of the outer door, or outer wall near the door, of every place of public worship in their parish. When published by town clerks, it is to be fixed in some public and conspicuous situation on the outside of the outer door, or outer wall near the door, of the town hall. With regard to notices of objection, any person on the county register for the time being is entitled to object to any other person, whether on the register or on the list of claimants ; but a person on the list of claimants only can object to none but new claimants. In boroughs, any person on the list may object to any other person. The notice of objection must be signed by the party objecting, and must also state on what list or register such objector's name is to be found ; as "on the list of voters for the parish of —." Two notices are required—one to be sent to the overseers, the other to the party objected to. The clerks of the peace and the town clerks having received the various lists from the overseers, make abstracts of them ; and on receiving from the revising barrister appointed for their district a notification of his appointment, they send him a copy of such abstract. When the revising barrister comes round, the clerk of the peace or town clerk (as the case may be) has to attend his court, and so have also the various overseers, whose duty it is then to be furnished with all original claims and other notices. The duty of the revising barrister is to revise the lists that have thus been made out by the overseers. He is to correct any mistake, duly proved as such, in the lists ; to expunge the name of any person where the qualification stated is insufficient, *in law*, to confer a vote ; to expunge the names of persons proved

to be dead ; to expunge the name of any person proved to have been convicted of bribery, treating, or undue influence, or against whom judgment in any penal action for such offences has been obtained ; to insert the name of any such person in a separate list, to be appended to the register, entitled " The list of persons disqualified for bribery, treating, or undue influence." Where the Christian name of a voter, his abode, the nature or description of his qualification, or the name of the occupying tenant are insufficiently described for the purpose of identification, or are wholly omitted, the barrister may expunge the name, unless the matter, so omitted or insufficiently described, be supplied to his satisfaction. Where any person on the lists produced by the overseers has been duly objected to, the barrister is to require the person objected to to prove that on the preceding last day of July he was entitled to have his name inserted in respect of the qualification there described. Any person who has made a claim to have his name inserted in any list ; or has made an objection to any other person as not entitled to have his name inserted in any list ; or whose name shall have been expunged from any list—may appeal from the decision of the revising barrister to the High Court of Justice. It is discretionary with the barrister to allow or refuse to allow such appeal to be made, and the subject of the appeal must be some point of law necessary to the decision of the case. From the decision of the High Court there is no appeal. The lists, when finally revised by the barrister, hold good for the ensuing twelve months.

Regrating. See " Forestalling."

Regular Clergy. In Roman Catholic times there was a distinction between the regular clergy—the monks, who lived *secundum regulas* of their respective houses or societies—and the secular or ordinary parochial clergy.

Rejoinder is the answer of the defendant to the replication of the plaintiff in the course of pleading in an action. Formalities are expressly prescribed for the regulation of rejoinders.

Release is the conveyance by a person who has rights in property, but not possession, to another who has possession subject to the exercise of the right of the other party, the release being an extinguishment of the right of the outsider.

Relief. Under the feudal system reliefs were incident to the tenure of land by military tenure and socage tenure. In the case of military tenure it was at first entirely arbitrary, so that if the lord chose to demand an exorbitant relief, it was in effect

to disinherit the heir. Reliefs were limited by William I. and Henry I. Afterwards, in the reign of Henry II., the composition of one hundred shillings for every knight's fee was universally accepted as the relief due. But this relief was only then payable if the heir at the death of his ancestor had attained his full age of twenty-one years. The amount due for reliefs was settled by *Magna Charta*, as one hundred pounds for an earldom or barony, and one hundred shillings for a knight's fee. In the case of socage tenure the relief is one year's rent or under, payable by the tenant to the lord, be the same either great or small. In socage, reliefs were due even though the heir was under age, because the lord had no wardship over him. The statute 12 Charles II. c. 24, which turned all military into socage tenures, reserved the relief incident to the latter; and, therefore, wherever lands in fee-simple are holden by a rent, relief is still due of common right upon the death of a tenant.

Relief of the Poor. See "Poor Laws."

Remainder. This is an important expression in many legal contingencies. As a general rule, it means a reversion. It most commonly applies to the estate which a person has in an entail when he is the heir, he being called the "remainder man."

Remand is when the further hearing against a prisoner is adjourned and deferred until a future time, he being, during the interval, subject to detention unless he be admitted to bail. A remand cannot be for more than eight days, but it may be renewed any number of times at intervals not exceeding eight days.

Remanet is a case deferred from one period to another.

Remembrancer, The Queen's. An officer of the former Court of Exchequer. The office was usually held by one of the masters of the court. (See 22 & 23 Vic. c. 21; and 28 & 29 Vic. c. 104.)

Rent. Custom has established the rule that, in the absence of any stipulation to the contrary, rent cannot become due until the end of the term at which it is payable; but if stipulated for in advance, it becomes due in advance as fully as if only payable at the end of each term. On the day before rent falls due the landlord is not entitled to any claim whatever as against the tenant or other creditors; on the day after, his claim is paramount against the tenant and all comers. When there is any covenant which is conditional upon the payment of rent precisely when it is due, it must be paid before sunset of the day ex-

pressed; otherwise it is not technically due till midnight of that day, and it cannot be enforced until sunrise the following morning, when, if insisted upon, it must be paid in legal tender. A cheque, if refused, is worthless, and an acceptance, even though taken by the landlord, will not bar his right to put in a distress any time during the currency of the bill or after its dishonour. In like manner, a promise to wait for the rent, for say a week or a month, is not a legal obligation; the landlord is at liberty to disregard it, no matter how solemnly or formally he makes the promise. Unreasonable as this may seem, there is more justice in it than appears on the surface: for it may be quite possible and probable that, after the promise, something may occur to alter the circumstances so materially as to morally absolve the landlord in respect of his promise. (See "Distress.")

Renunciation is when a person who is named as executor refuses to fill the office.

Replevin. An action brought to recover possession of goods unlawfully taken, the validity of which taking it is the regular mode of contesting. It is brought generally to recover goods that have been wrongfully distrained.

Replication is the reply of the plaintiff to the plea or answer of the defendant in an action.

Reply is the statement of a plaintiff in answer to the statement of the defendant's defence. (See "Statement of Claim.")

Reports. The most important books to the legal student or practitioner are the "Law Reports," which are records of cases tried in the various courts, with memoranda of circumstances, evidence, verdicts, and judgments. These reports date back to ancient times, and have always been voluntarily collected and published. They really constitute the actual law upon many points where decisions are governed by precedents. They consist of volumes in every form, by all sorts of compilers and various publishers, some of them being contradictory, so that in many cases reference to two or more reports is necessary to sustain any alleged precedent. These reports extend to the works of considerably more than five hundred authors, many of whose labours have continued for numbers of continuous years. There is scarcely a book devoted at length to any important department of the law that does not contain numerous references to these reports, the abbreviations resorted to being necessary to economy of space. Thus, "Y. & J." means Younge and Jarvis's Reports of the Exchequer Court from 1826 to 1880. "And." means Sir E. Anderson's Reports of the Common Pleas in the

18th Century. "B. & S." means Best and Smith's Reports of the Queen's Bench from 1861 to 1870; and so on. There is nothing that draws a sharper line between the professional and non-professional man than extensive knowledge of these reports and familiarity with the inexhaustible information they contain, patience in the pursuit of which is the necessary foundation of every eminent legal career.

Reporting in Parliament. A century ago there was no publication which could properly be said to contain a satisfactory account of parliamentary proceedings, and even within the recollection of many persons now living the debates were but very imperfectly reported. From the commencement of the first American war, however, till the year 1814, a gradual improvement took place in the publication of debates; until, at length, the art of the reporter and the business of the publisher were prosecuted with a degree of success the effects of which will always continue to be felt. When the close of the war in 1815 diminished at once the supply and the importance of foreign intelligence; when public attention became directed with almost exclusive anxiety to domestic affairs, the publication of parliamentary debates appeared to become an object of national importance, and in the course of a few years assumed its present full, detailed, and accurate character. It is contrary to the standing orders of both houses that any strangers should be present, and any individual member can demand that the order be enforced; the publication therefore of debates is held to be theoretically a breach of privilege; but in modern times, if any member were repeatedly to insist upon the exclusion of "strangers"—as all are called who are neither members nor officers of the house—there can be no doubt that this abuse of the privilege would lead to a modification of the standing order against the presence of strangers. In 1871 a select committee came to the decision that strangers should not be excluded except after a vote carried without amendment or debate. Reporters are now so well recognized by parliament that a separate gallery is set apart for their accommodation.

Representation, in law, is of various kinds. The representative of any deceased person is his nearest kin, that is, his descendants if he has any, or otherwise according to the Statute of Distributions, which only comes into force in case of intestacy, though it may be (and often is) adopted as the basis of distribution under a will. If A. dies intestate, leaving his brother B. living and the children of his brother C., who is dead, then B. takes one

half and the children of C. the other half in equal sub-shares, and they are said to take *per stirpes* or by representation.

Representation of the People Act, 1867. This Act (30 & 31 Vic. c. 102), popularly known as the Reform Act of that date, materially altered the appropriation of seats in parliament; reduced the qualification for a county voter to £12; gave a county vote for the first time in respect of building leases of sixty years and £5 annual value; extended the right of voting in boroughs to every rated householder of twelve months' standing.

Representative Peers are those who are elected by the peers of Scotland and Ireland to represent them in the House of Lords.

Reprieve. The suspension of the execution of a criminal's sentence.

Reprisals are used between nation and nation, in order to do themselves justice when they cannot otherwise obtain it. If a nation has taken possession of what belongs to another—if she refuses to pay a debt, to repair an injury, or to give adequate satisfaction for it—the latter seizes something belonging to the former and applies it to her own advantage, unless she obtains payment of what is due to her, until she has received ample satisfaction. Her Majesty alone has, by her prerogative, power to authorize any subject of this realm to make reprisals.

Request, Letters of. Many suits are brought before the Dean of the Arches (see "Arches, Court of") the cognizance of which properly belongs to inferior jurisdictions within the province, but in respect of which the inferior judge has waived his jurisdiction under a certain form of proceeding known in the canon law as "letters of request."

Requests, Courts of. The dilatory and expensive character of the proceedings in the old common-law county courts, as applied to the recovery of debts of small amount, gave rise in modern times to the establishment in various parts of the country, by various local Acts of Parliament, of courts of *request* (or of *conscience*) for recovery of such demands. These courts, however, proved inadequate to the purpose—chiefly because confined to sums of too trivial an amount, and extending only to particular places or small districts. The inconvenience hence arising led to the establishment (by 9 & 10 Vic. c. 95) of the modern county court, and by the effect of that statute and an order in council of May 9, 1847, the courts of conscience and request are now (subject only to a few exceptions) abolished.

Reserving a Point of Law. This is where a provisional decision is arrived at, to become absolute should a stated point of law prove to be soundly stated, but subject to quashing or reconsideration should the point of law prove to have a different bearing to that originally assigned to it.

Residuary Account is the name of the account which every executor or administrator is bound to submit to the Board of Inland Revenue before relinquishing office.

Residuary Devisee is the person entitled to take all that remains after the legacies have been paid out of an estate under a will.

Residuary Legatee is he who gets the residue to which, as devisee, he became entitled.

Respite. To postpone. If the execution of a criminal be respited, a reprieve is usually granted.

Respondent is the person who is required to answer to a citation based upon a petition in the Divorce Court. The word "respondent" is almost equivalent to "defendant."

Restitution of Conjugal Rights. Every husband is entitled, upon petition, to a decree of the Divorce Court to compel his wife to live with him unless he has been guilty of conduct that entitles her to judicial separation. Every wife is similarly entitled with reference to her husband. The process is called "Restitution of Conjugal Rights."

Restoration, The. The name applied to the restoration of Charles II. to the throne in 1660.

Retaining Fee. This is a payment made to a barrister to retain him as counsel in an action. The rule is that if a barrister is paid a retaining fee by the plaintiff he must not act for the defendant, and *vice versa*; but the fee does not compel the recipient to act for the party who pays the fee.

Returning Officer. In parliamentary elections, the person to whom the writ for the election of a member of the House of Commons is addressed, and who is thereupon to proceed to the election, and after the election to certify the same, together with the writ, to the Clerk of the Crown. In counties and counties of towns the sheriff is the returning officer; in boroughs under the Municipal Corporations Act (5 & 6 Will. IV. c. 76) the mayor—or if there be two mayors within the boundaries of the borough, the one to whom the writ is directed. To some of the boroughs enfranchised by the Reform Act of 1832 a returning officer is specially appointed by the Act; where this has not been done, and no charter of incorporation has been granted

subsequently to the passing of the above Act, the sheriff of the county within which the borough is situate is directed in the month of March in every year to appoint a fit person to be the returning officer. Certain persons are exempted from being appointed returning officer. In the Universities of Oxford, Cambridge, and London, the Vice-chancellor is the returning officer. It is part of the common law of elections that a returning officer can in no case return himself. In England the returning officer may vote, but has no casting vote; in Scotland he may not even vote; in Ireland he has a casting vote.

Reversion is the remainder of an estate after some condition has been fulfilled. Such is the popular acceptance of the word, and such is the most common form of reversion; but, strictly, it means the return of an estate to the grantor—as possession by the landlord at the expiration of an occupation tenancy.

Reversionary Interest equally applies to all kinds of deferred estates in whatever sort of property. (See “Sale of Reversions Act.”)

Review. It is the function of courts of appeal to review the decisions of inferior courts.

Revising Barristers. Certain barristers appointed every year to revise the list of voters at parliamentary elections. Their appointment is regulated by sections 28 and 29 of 6 Vic. c. 18. The Lord Chief Justice of the High Court appoints for the county of Middlesex and the boroughs within it, and for the cities of London and Westminster; and the senior judge of assize for the time being appoints for each county and borough within the circuit. The barrister is not to be of less than three years' standing; he must not be a member of parliament, or hold any office or place of profit under the Crown except that of recorder; but no barrister is to be appointed to revise a borough of which he is recorder, and no barrister is for eighteen months from the time of his appointment eligible to serve in parliament for any place for which he was appointed. The salary is fixed by section 59 at 200 guineas, to be taken in satisfaction of all expenses. Additional barristers may be appointed in case of need. The barristers are to notify their appointments to clerks of the peace and town clerks of the places to which they are appointed, in order that they may receive from the clerks of the peace and town clerks abstracts of lists of claims and objections. Barristers appointed to counties are to make circuits between Sept. 20th and Oct. 31st, both days inclusive, and hold open courts at all polling-places, and at any other

places in the county which they may think expedient. Those appointed to boroughs are to hold open courts within the boroughs, and also within every place sharing in the election, between Sept. 15th and Oct. 31st, giving seven days' notice at the least to the town clerk. And if they deem it expedient to hold courts at different times and places within a borough, the notice to the town clerk must state the times and places so appointed and the parishes allotted to each court. Where two barristers are appointed for the same county or borough, they may for the despatch of business hold separate courts at the same, or at different times and places.

Revolution. The. The name given in our history to the flight of James II. (which was declared an abdication of the throne by the Convention Parliament), and the establishment of William and Mary on the throne in his stead, A.D. 1688. •

Rider. This word derives its legal significance from an ancient custom of parliament. When a new clause is added to a bill on its third reading it is called a rider, because the course used to be in such cases to tack on a piece of parchment to the bill with the new matter written thereon.

Right, Declaration of. A declaration annexed, by the Convention Parliament at the time of the Revolution, to a settlement of the Crown on the Prince and Princess of Orange (William III. and Mary), whereby all the points which had of late years been disputed between the king and the people were finally determined, and the powers of royal prerogative were more narrowly circumscribed and more exactly defined than in any former period of English history. After the accession of William and Mary, a bill to convert the Convention into a Parliament passed both Houses and received the royal assent. The declaration of right was then passed by this parliament in the form of an Act, and has since been known as the Bill of Rights, of which see next page.

Right of Way. Wherever a purchaser discovers that he has no right of access to his property specifically secured to him, he has a spontaneous right of way through some other portion of the manor or property out of which his purchase has arisen, and such is a "way of necessity." In such cases and all cases a right of way resorted to and not interfered with for twenty years establishes a prescriptive right for ever; but if such a right is allowed in the first instance by a tenant for life, his successor is entitled to bar the right. Any person who claims a right of way along a path or road, other than a highway, must

prove that it is necessary for his habitual convenience or enjoyment. A bounded right of way is one leading to a particular spot or place only ; it must not be used for proceeding on the way to another spot beyond that place. Some paths are only legally usable by the inhabitants of a house or village for the purpose of passing to or from church. When a path or road is impassable, either temporarily (as from a flood) or permanently, from being suffered to get grossly out of repair, any person is entitled to deviate and pass across fields the nearest practicable way, and it is lawful in such cases to break through fences if necessary for reaching passable ground.

Rights, Bill of. An Act passed in 1689 by the first parliament of William and Mary. It is called "An Act for declaring the rights and liberties of the subject, and settling the succession of the Crown." It begins by reciting the principal illegal acts of which James II. had been guilty, and then goes on to enact and declare :—1. That the pretended power of suspending of laws, or the execution of laws by regal authority, without consent of parliament, is illegal. 2. That the pretended power of dispensing with laws, or the execution of laws by regal authority as it hath been assumed and exercised of late, is illegal. 3. That the commission for erecting the late Court of Commissioners for Ecclesiastical Causes, and all other commissions and courts of like nature, are illegal and pernicious. 4. That levying money for or to the use of the Crown by pretence of prerogative, without grant of parliament, for longer time or in other manner than the same is or shall be granted, is illegal. 5. That it is the right of the subjects to petition the king, and all commitments and prosecutions for such petitioning are illegal. 6. That the raising or keeping a standing army within the kingdom in time of peace, unless it be with consent of parliament, is against law. 7. That the subjects which are Protestants may have arms for their defence suitable to their conditions, and as allowed by law. 8. That election of members of parliament ought to be free. 9. That the freedom of speech, and debates or proceedings in parliament, ought not to be impeached or questioned in any court or place out of parliament. 10. That excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted. 11. That jurors ought to be duly impanelled and returned, and jurors which pass upon men in trials for high treason ought to be freeholders. 12. That all grants and promises of fines and forfeitures of particular persons before conviction are illegal and

void. 18. And that for redress of all grievances, and for the amending, strengthening, and preserving of the laws, parliament ought to be held frequently. The Act then proceeded to settle the crown on William and Mary for their joint lives; the Princess of Denmark to succeed after their death; her posterity after those of Mary, but before those of William by any other wife.

Riot Act. An Act (1 Geo. 1, st. 2, c. 5) which enacts generally, that if any twelve persons are unlawfully assembled to the disturbance of the peace, and any one justice of the peace, sheriff, under-sheriff, or mayor of a town, shall think proper to command them by proclamation to disperse—if they contemn his orders and continue together for more than an hour afterwards, such contempt shall be felony; and the punishment is penal servitude for life or not less than three years; or imprisonment, with or without hard labour or solitary confinement, for not more than two years. And the Riot Act further declares, that if the reading of the Riot Act be by force opposed, or the reader be in any manner wilfully hindered from the reading of it, such opposers and hinderers, and all persons to whom such proclamation ought to have been made and knowing of such hindrance and not dispersing, are felons, and they are liable to the same punishment. The Riot Act also contains a clause indemnifying the officers and their assistants in case any of the mob be unfortunately killed in the endeavour to disperse them. But, independently of this last provision, the officers, in case of a riot or rebellious assembly, are justifiable at common law in killing persons in endeavouring to disperse the mob. The form of proclamation to be made under the Riot Act is as follows:—“Our sovereign lady the Queen chargeth and commendeth all persons being assembled immediately to disperse themselves, and peaceably to depart to their habitations, or to their lawful business, upon the pains contained in the Act made in the first year of King George, for preventing tumults and riotous assemblies. God save the Queen.” It may be remarked that a riot may exist, and the persons engaged in it are punishable, and the authorities may take steps to disperse it by force, and officers are justifiable in killing persons in their endeavours to disperse a riot, altogether independently of the Riot Act. The real effect of the Riot Act is to render it more highly penal to continue a riot for one hour after the reading of the above proclamation than it would be independently of the reading of such proclamation.

Riparian Proprietors are the owners of the banks of a river.

Ritualism. See "Public Worship."

Rivers Pollution. An Act was passed in 1876 (39 & 40 Vic. c. 75) for the prevention of the pollution of rivers; prohibiting putting solid matters into streams; drainage into streams; manufacturing and mining pollutions; with provisions to facilitate legal proceedings; saving clauses; definitions. The Act applies to the whole of the United Kingdom.

Rolls Court. The Court of Chancery has, at least from the time of Henry VIII., had the assistance of the Master of the Rolls (as the judge in the Rolls Court is styled) in administering justice according to the rules of equity. The Master of the Rolls, who is now the custodian of the public records of the kingdom, was formerly the chief only of the masters in Chancery, who carried out the decrees and performed the ministerial functions of the court. Cardinal Wolsey is said to have been the first chancellor who devolved on the Master of the Rolls the exercise of a considerable branch of the equity jurisdiction of the court. It is now regulated by the 3 Geo. II. c. 30, and 3 & 4 Will. IV. c. 94. From the decree of the Master of the Rolls an appeal lies to the Lord Chancellor, or to the court of appeal in Chancery, and thence to the House of Lords.

Rolls, Master of the. The chief of a body of officers called the Masters in Chancery, of whom there are eleven others, including the accountant-general. He is judge of the Equity Court, which ranks next to that of the Lord Chancellor, and has the keeping of the rolls and grants which pass the Great Seal, and the records of Chancery. All orders and decrees made by him, except such as by the course of the court are appropriated to the Great Seal alone, are to be deemed to be valid, subject nevertheless to be discharged or altered by the Lord Chancellor, and so as they shall not be enrolled till signed by the Lord Chancellor.

Roman Catholic Charities Act. This Act, passed in 1860 (23 & 24 Vic. c. 134), is for the regulation of estates in the hands of trustees on behalf of Roman Catholics. Power is given to the Charity Commissioners to exercise control over the appropriation of such estates with a view to preventing them from being devoted to superstitious uses.

Royal Assent. The Act by which the Crown agrees to a bill which has already passed both houses is called "the royal assent," which may be given by the sovereign in person, robed,

crowned, and seated on the throne in the House of Lords, the Commons seated at the bar; or by commissioners appointed by the Crown for that special purpose and for the single occasion. The forms observed in either case do not vary, and are as follows:—The Lords being assembled in their own house, the sovereign or the commissioners seated, and the Commons at the bar, the titles of the several bills which have passed both houses are read, and the king or queen's answer is declared by the clerk of the parliament in Norman-French. To a bill of supply the assent is given in the following words: "*Le roi (or la reine) remercie ses loyals sujets, accepte leur benevolence et ainsi le veut.*" To a private bill it is thus declared: "*Soit comme il est désiré.*" And to public general bills it is given in these terms: "*Le roi (or la reine) le veut.*" Should the sovereign refuse assent, it is in the gentle language of "*Le roy (or la reine) s'avisera.*" As acts of grace and amnesty originate with the Crown, the clerk, expressing the gratitude of the subject, addresses the throne as follows: "*Les prélates, seigneurs, et communs, en ce présent parlement assemblés, au nom de tous nous autres sujets, remercient très humblement votre majesté et prient à Dieu vous donner en santé bonne vie et longue.*" The moment the royal assent has been given, that which was a bill becomes an Act, and instantly has the force and effect of law, unless some time for the commencement of its operation shall have been specially appointed. Queen Elizabeth at the end of one session rejected forty-eight bills that had been agreed to by both houses. In 1692 William III. rejected a bill for triennial parliaments, though two years afterwards he assented to it. In 1707 Queen Anne refused her assent to a Scotch militia bill. That is the last occasion on which the prerogative has been exercised.

Royal Marriage Act. See "Marriage."

Rule. This is the name given to the order of a superior court that there shall be a new trial or some other special process allowed with reference to a certain matter.

Rule Nisi is when an order is made provisionally, subject to being subsequently decided upon.

Rule Absolute. When a rule nisi is granted, it is upon *ex parte* evidence, and a day is appointed for hearing the other side. The court has then the option of two courses: it can discharge or quash the rule nisi, or make it absolute, in which latter case it is put into full force.

Rural Dean. Rural deans are very ancient officers of the Church, but their authority is almost grown out of use, though

their deaneries still subsist as an ecclesiastical division of the diocese or archdeaconry. They seem originally to have been deputies of the bishop, planted all round his diocese, the better to inspect the conduct of the parochial clergy, to inquire into and report dilapidations, and to examine the candidates for confirmation; and they were armed in minuter matters with an inferior degree of judicial and coercive authority.

Rural Sanitary Authority. The Public Health Act, 1875 (38 & 39 Vic. c. 55), constitutes the guardians of the poor as the authority in any rural district created by the Act.

Rural Sanitary District. The definition of this expression is contained in the Public Health Act, 1875, as the area of any union which is not coincident in area with an urban district, nor wholly included in an urban district, as defined by the Act.

S. S. C. is an abbreviation of Solicitor of the Supreme Court, a title to which all legal practitioners (except barristers) are entitled.

Sacrilege is outrage on or in any religious building, or larceny of anything dedicated to religious rites.

Salaries. See "Bankruptcy" and "Companies."

Sale by Auction Act, 1867. The principal effect of this Act is to legalize secret biddings at auctions of land, provided notice is given in the particulars of sale that the vendor reserves the right of bidding by agent.

Sale of Land. See "Settled Estates."

Sale of Reversions Act. This Act was passed in 1867 (31 Vic. c. 4) to prevent any sale of a reversion from being set aside on the ground of mere undervalue, providing the purchaser can show that he has acted fairly and in good faith, and has not resorted to any deception or contrivance of a fraudulent character.

Salic Law excludes succession or inheritance by women. It originated in France, where the reign of a queen regnant has always been impossible.

Salmon Fisheries. These are elaborately regulated by the Salmon Fisheries Act, 1861 (24 & 25 Vic. c. 109), amended by 26 Vic. c. 10; 28 & 29 Vic. c. 121; 33 & 34 Vic. c. 33; 36 Vic. c. 13; 36 & 37 Vic. c. 71; 39 & 40 Vic. cc. 19, 34; 40 & 41 Vic. c. 65 (for the prohibition of use of dynamite); 41 & 42 Vic. c. 39; 42 & 43 Vic. c. 26. These Acts, while restricting the manner of fishing in various details, prescribe what is called close time, during which it is unlawful for any person to fish for, catch, or attempt to catch or kill, any salmon. Fishing with

a rod and line is permitted between September 1 and November 1; otherwise close time extends from September 1 to February 1, and from 12 at noon on every Saturday till 6 in the morning of every Monday; during which close times every contrivance for the catching of salmon (except putts and pitchers) must be discontinued. The close time for what are called putts and pitchers extends from September 1 to May 1, but such contrivances between May 1 and September 1 may continue during the whole of every Saturday, Sunday, and Monday.

Salvage is the reward due to those who succeed in saving or recovering goods from pirates, enemies at war, or shipwreck. Claims for salvage are fully entertained and effectually adjudicated upon by the Admiralty Division of the High Court of Justice. The word salvage has been generally applied of late years to property rescued from a fire or other destructive calamity.

Savings Banks. These are institutions devised for the safe custody and increase of the small savings of poor persons. When regulated according to Act of Parliament, certain benefits and protections are afforded to them by law. The statutes containing the existing regulations are the 9 Geo. IV. c. 92; 3 & 4 Will. IV. c. 14; 7 & 8 Vic. c. 83; 16 & 17 Vic. c. 45; and 23 & 24 Vic. c. 137. The institutions sanctioned by these Acts consist of banks to receive small deposits of money, the produce of which is to accumulate at compound interest, and the principal and interest whereof are to be paid out to the depositors as required, deducting from the produce only the necessary expense of management. The deposits are not to exceed £30 in the whole in any one year; and no fresh deposit is to be received when the sum to which the depositor is entitled amounts to £150. And where the sum standing in the name of any depositor amounts to £200 (principal and interest included), no interest shall be paid to the depositor so long as it remains at that amount. The management is vested in trustees, who are prohibited from receiving, directly or indirectly, any benefit from the institution, and are required to remit the money deposited (with the exception of what is retained in the hands of the treasurer to answer exigencies) to the Bank of England. The monies so remitted are carried to an account kept in the names of the Commissioners for Reduction of the National Debt, and denominated "The Fund for the Bank for Savings," which affords interest to the trustees at the rate of £3 5s. per cent. per annum, and the arrears of which are carried half-yearly to the

account of the principal. The interest payable to depositors is limited to £3 Os. 10d. per cent., but it may accumulate by yearly or half-yearly rests. Provisions are also made in the Acts of a nature calculated to save expense to the members of these institutions. In case of the decease of a depositor whose estate does not exceed £50, no legacy duty attaches, and no stamp duty is payable on the probate or administration. And if any person die having a deposit not exceeding £50 exclusive of interest, and no will or letters of administration be produced within one month afterwards, the money may be paid to or among such person or persons as shall appear to the trustees or managers to be the widow, or entitled under the Statute of Distributions. Upon the same principle, it is directed, that the trustees may pay, upon any deposit by a married woman, to the woman herself (now a needless proviso under the Act of 1882), and that all disputes between the institution at large and any of its members or their representatives shall be referred to a cheap method of arbitration provided for the purpose. Any persons forming themselves into a society for the purpose of establishing a savings-bank are entitled to claim for it the benefit of the parliamentary provisions, upon causing the rules and regulations which they shall establish for its management to be entered in a book, to be kept by one of its officers, to be inspected by the depositors. It is also requisite that two copies of the rules shall be submitted to a barrister officially appointed for the purpose, who is to certify whether the rules are in conformity to law and pursuant to the legislative enactments. And one of the copies so certified is to be returned to the trustees, and the other to be transmitted to the Commissioners for the Reduction of the National Debt. By one of the Acts above mentioned (16 & 17 Vic. c. 45) it is provided that it shall be lawful for the Commissioners for the Reduction of the National Debt to grant to any depositor in a savings-bank, or other person whom they shall think entitled to become a depositor, any immediate or deferred life annuities depending on single lives, or immediate annuities depending on joint lives with benefit of survivorship, or on the joint continuance of two lives. But no annuity may be less than £4, or more than £90, for the benefit of any one person; and none shall be granted for any person under the age of ten. Savings-banks have proved so acceptable to the people of this country, that on November 20, 1861, the deposits in the United Kingdom amounted in the aggregate to over forty millions sterling. More recently a system has been established for the deposit of small

savings at interest, managed by the authorities of the Post-office, and which enjoys the advantage of the direct security of the government for the repayment of the deposits. The Act passed to carry out this design—the 24 & 25 Vic. c. 14—authorizes the Postmaster-general, with the consent of the Commissioners of the Treasury, to cause his officers to receive deposits, wherever an office for that purpose is appointed, for remittance to the principal office; and to repay the same under such regulations as shall from time to time be prescribed. Each depositor is to receive from the Postmaster-general, through the branch office at which the deposit is made, an acknowledgment of its amount, which shall be conclusive evidence of his claim to repayment within 10 days after demand, with interest thereon at the rate of £2 10s. per cent. per annum. The monies deposited are to be forthwith paid over to the Commissioners for the Reduction of the National Debt, to be by them invested in such securities as are lawful for the funds of other savings-banks; and if at any time the fund so created shall be insufficient to meet the claims of all depositors, the Treasury is empowered to make such deficiency good out of the Consolidated Fund. The Act also contains provisions enabling any person making deposit under it to transfer the amount to any savings-bank established under the Savings Bank Acts; and for the transfer, on the other hand, of the amount due to any depositor in any such savings-bank to the Postmaster-general for deposit under this Act. And it is provided that all the enactments previously in force with regard to such savings-banks shall (where not repugnant) be deemed applicable to deposits under this Act also.

Schools, Endowed. An Act of 1869 (32 & 33 Vic. c. 56) makes provision as to endowed schools, under which term are included any schools wholly or partially maintained by means of an endowment. The Act provides for the appointment of commissioners, who are to form schemes calculated to render any educational endowment most conducive to the education of boys and girls, or either of them, and for this purpose to alter and add to any existing trusts directions and provisions affecting the same. They are also to make schemes for the alteration of the constitution, rights, and powers of any governing body of an educational endowment, and to establish a new governing body. The commissioners are not to make any such scheme interfering (1) with any endowment originally given to charitable uses less than fifty years before the commencement of this Act, unless the governing body assent to such

scheme; (2) with the constitution of the governing body of any school wholly or partially maintained out of the endowment of any cathedral or collegiate church, or forming part of the foundation of any cathedral or collegiate church, unless the dean and chapter of such church assent to the same; (3) with the constitution of the governing body of any school, which governing body is subject to the jurisdiction of the Quakers or Moravians, unless the governing body of such school assent to the same; (4) with the constitution of the governing body of any school forming part of the foundation of any college in Oxford or Cambridge, unless such college assent to the same. The commissioners in every scheme are to provide that the parent or guardian of any person liable to maintain, or having the actual custody of, any scholar attending such school as a day scholar, may claim the exemption of such scholar from attending prayer or religious worship, or any lessons on religious subjects, and that such scholar shall be exempted accordingly, and that he shall not thereby lose any advantage or emolument to which he would otherwise be entitled. And as to every boarding-school, if a scholar's parent or guardian desire such exemption from religious services, &c., and the person in charge of the boarding-houses of such school are not willing to allow such exemption, it shall be the duty of the governing body of such school to make proper provisions for enabling the scholar to attend as a day scholar, without thereby losing any emolument or advantage to which he would be otherwise entitled. The commissioners, moreover, in every scheme (with certain exceptions) relating to any educational endowment, are to provide that the religious opinions of any person, or his attendance or non-attendance at any particular form of religious worship, shall not in any way affect his qualification for being one of the governing body of such endowment. Further, in every such scheme it is to be provided that no person shall be disqualified from being a master by means of his not being in holy orders. But a scheme relating to (1) any school maintained out of the endowment of any cathedral or collegiate church, or forming part of the foundation of any cathedral or collegiate church; or (2) any educational endowment the scholars of which are in the opinion of the commissioners required by the express terms of the original instrument of foundation, or of the statutes or regulations made by the founder or under his authority in his lifetime or within fifty years after his death, to learn or be instructed according to the formularies of any par-

ticular church, sect, or denomination, is excepted from the foregoing provisions respecting religious instruction, &c. An appeal lies to the Queen in council against any proposed scheme.

If no such appeal is presented, the scheme is to be laid before parliament; and if within forty days no address is presented by one or other House of Parliament praying Her Majesty to withhold her consent to such scheme, Her Majesty may by order in council declare her approbation of such scheme, and such scheme is then to take effect. The Act has no application at all to the schools of Eton, Winchester, Westminster, Charterhouse, Harrow, Rugby, or Shrewsbury, these being dealt with in the Public Schools Act, 1868. Nor has it any application to any school which on Jan. 1st, 1869, was maintained wholly or in part out of annual voluntary subscriptions, and had no endowment besides school buildings or tutors' residences, or playground or gardens; or to any school which at the commencement of this Act was in receipt of an annual grant of money appropriated by parliament to the civil service, intituled "For Public Education in Great Britain," or to the endowment thereof—unless such school is a grammar school, or a school a department only of which is in receipt of such grant; to any school which is maintained out of any endowment the income of which may, at the discretion of the governing body thereof, be wholly applied to other than educational purposes or to such endowment; or to any school which receives assistance out of any endowment the income of which may, in the discretion of the governing body, be applied to some other school; or to any endowment applicable and applied solely for promoting the education of the ministers of any church or religious denomination, or for teaching any particular profession; or to any school which before Jan. 1st, 1869, was used solely for the education of choristers, or to the endowment of any such school if applicable solely to such education.

Scire Facias. A judicial writ founded on some record, and requiring the person against whom it is brought to show cause why the party bringing it should not have the advantage of such record, or (as in the case of a *scire facias* to repeal letters patent) why the record should not be annulled and vacated. It is deemed an action, and in the nature of a new original writ.

Scot and Lot. By custom, in certain boroughs, all inhabitants paying scot and lot had the borough franchise before the passing of the Reform Act of 1832, and this privilege was continued by the Act in favour of those who at the time of the

passing of the Act were in enjoyment of it. The term "paying scot and lot" means the payment by a parishioner of the sum to which he is assessed on the poor-rate. To constitute an "inhabitant paying scot and lot" two things are necessary: rating and payment. However, an omission to pay rates for *one year* does not disqualify. The voter's right is suspended only, not lost. If the voter omits to pay his rates for two years, and is in consequence omitted for two years from the register, his right as an "inhabitant paying scot and lot" is gone. The rule with regard to payment of rates by scot and lot voters differs from that with regard to occupiers under the Reform Act of 1867 in this: that with regard to the former a personal demand is necessary, whereas in the case of the latter there is no necessity for a personal demand.

Scotland, Act of Union with. The kingdom of Scotland, notwithstanding the unions of the crowns on the accession of James VI. of Scotland to the throne of England, continued an entirely separate and distinct kingdom for above a hundred years longer, though a union had been long projected. The union was at last accomplished by an Act of 5 & 6 Anne (A.D. 1707), when twenty-five articles of union were agreed to by the parliaments of both nations; the purport of the most considerable being as follows:—

1. That on May 1, 1707, and for ever after, the kingdom of England and Scotland shall be united into one kingdom, by the name of Great Britain.

2. That succession to the monarchy of Great Britain shall be the same as was before settled with regard to that of England.

8. The United Kingdom shall be represented by one parliament.

4. There shall be a communication of all rights and privileges between the subjects of both kingdoms, except where it is otherwise agreed.

9. When England raises £2,000,000 by a land-tax, Scotland shall raise £48,000.

16, 17. The standards of the coin, of weights, and of measures shall be reduced to those of England, throughout the united kingdoms.

11. The laws relating to trade, customs, and the excise shall be the same in Scotland as in England. But all the other laws of Scotland shall remain in force, though alterable by the Parliament of Great Britain. Yet with this caution, that laws

relating to public policy are alterable at the discretion of the parliament; laws relating to private right are not to be altered but for the evident utility of Scotland.

22. Sixteen peers are to be chosen to represent the peerage of Scotland, and forty-five members to sit in the House of Commons.

23. The sixteen peers of Scotland are to have all privileges of parliament, and all peers of Scotland shall be peers of Great Britain, and rank next after those of the same degree at the time of the union, and shall have all privileges of peers, except sitting in the House of Lords and voting on the trial of a peer. Upon this Act, Blackstone observed—1. That the two kingdoms are now so inseparably united that nothing can ever disunite them again; except the mutual consent of both, or the successful resistance of either, upon apprehending an infringement of those points which, when they were separate and independent nations, it was mutually stipulated should be “fundamental and essential conditions of the union.” 2. That whatever else may be deemed “fundamental and essential conditions,” the preservation of the two churches of England and Scotland, in the same state as they were in at the time of the union, and the maintenance of the Acts of Uniformity which establish our common prayer, are expressly declared to be so. 3. That therefore any alteration in the constitution of either of those churches, or in the liturgy of the Church of England (unless with the consent of the respective churches, collectively or representatively given), would be an infringement of the “fundamental and essential conditions,” and greatly endanger the union. 4. That the municipal laws of Scotland are ordained to be still observed in that part of the island, unless altered by parliament; and they still (with regard to the particulars unaltered) continue in full force. Wherefore the municipal or common laws of England are, generally speaking, of no force or validity in Scotland. It is usual in every Act of Parliament to insert a clause stating to what part of the United Kingdom it refers; and only those relating especially to Scotland, or declared to relate to the whole of the United Kingdom, have any effect in Scotland.

Scrip is the name of a certificate entitling the holder to have shares allotted to him in a public company. It is customary to deal with scrip as if it were shares, but such is not correct. It entitles the original holder to have shares assigned to him, but it does not bind him to accept them unless he has otherwise bound himself to do so. The possession of scrip does not entitle

any subsequent holder to the shares originally allotted, neither does it commit the holder to any liability in respect of such shares until they are actually transferred and accepted.

Scrutiny. At the trial of an election petition, if the petitioner claims the seat for himself he may demand a scrutiny, at which it is competent to him to show that any vote or votes given to the person petitioned against is null and void, and so endeavour, by striking off a certain number of the votes given to his opponent, to reduce his majority to a minority.

Scutage. See "Escuage."

Sea Birds Protection Act of 1869 was repealed by the **Wild Birds Protection Act**.

Sea Fisheries. See "Fisheries."

Seal. The effect of a seal upon a legal document is to constitute it a deed, whether it be otherwise expressed to be one or not.

Seal Fisheries. An Act of 1875 (38 Vic. c. 18) applies to fishing for seals within the area included between the parallels of 67 and 75 degrees of north latitude, and between the meridians of 5 degrees east and 17 degrees west of Greenwich. The Act empowers the Queen in council to prescribe close time within the area referred to, and to alter, vary, or suspend such close time, and to publish orders accordingly. Whoever infringes such an order is liable to a penalty of £100.

Search Warrant is the name of an order granted by a judge or magistrate to search any premises, shop, or dwelling-house. Such a warrant may be issued under a great variety of circumstances, and it gives the holder great power.

Secretaries of State. Great officers of the Crown in attendance on the sovereign, for the receipt and despatch of letters, grants, petitions, and most of the important affairs of the kingdom, both foreign and domestic. They are always members of the Cabinet, and indeed are the principal members of the Ministry. There are five principal secretaries, one for the home department, another for foreign affairs, a third for the colonies, a fourth for war, and a fifth for India. These have under their management the most considerable affairs of the nation, and are obliged to a constant attendance on the sovereign; they receive and despatch whatever comes to their hands, be it for the Crown, the Church, or the army, private grants, pardons, dispensations, &c., as likewise petitions to the Crown, which, when read, are returned to the secretaries to answer. Each of them has two under-secretaries, and one or more chief clerks, besides a number of other

clerks and officers, wholly depending on them. The Secretaries of State have power to commit for treason and other offences against the State. They have the custody of the signet, and the direction of the signet office and the paper office. Ireland is under the direction of a chief-secretary to the Lord-Lieutenant, who has under him a resident under-secretary. Each Secretary of State has an under-secretary. Only four under-secretaries at one time are competent to hold seats in the House of Commons.

Secular Clergy. See "Regular Clergy."

Security for Costs. When a plaintiff is residing out of the jurisdiction of the court he sues in, or is believed to be insolvent or in indigent circumstances, the defendant is entitled to move the court to require the plaintiff to find security for the costs of the defendant in the event of the verdict going against the plaintiff. The right of the defendant to such security also accrues whenever he can produce evidence that the action is not *bonâ fide*, when it is a sham action, or when the plaintiff is acting on behalf of another person.

Seeds (Adulteration of). Numerous and surprising frauds having been resorted to for foisting dead and otherwise worthless seeds upon unwary purchasers, an Act was passed in 1869 (32 & 33 Vic. c. 112) making it unlawful to kill or cause to be killed any seeds; or to dye or cause to be dyed any seeds; or to sell or cause to be sold any killed or dyed seeds. To kill seeds is defined as meaning to destroy by artificial means the vitality or germinating power; to dye seeds is defined to mean giving to seeds by any process of colouring, dyeing, sulphur smoking, or other artificial means, the appearance of seeds of another kind. This proving insufficient, a supplementary Act was passed in 1878 (41 Vic. c. 17), providing that "The term 'to dye seeds' means to apply to seeds any process of colouring, dyeing, or sulphur smoking." The penalty for every fraud indicated is £5, and, for repeated offences, publication of the particulars of the offence and a description of the offender in any newspaper or newspapers the justices may think fit to order in addition to the penalty.

Seizin. The feudal doctrine that all estates are holden of some lord necessarily implies that all lands must necessarily have some feudal owner or tenant. This feudal tenant is the freeholder, or holder of the freehold; he has the feudal possession, called the seizin, and, so long as he is seized no one else can be. The freehold is said to be *in* him, and till it is taken out of him and given to some other, the land itself is regarded

as in his custody or possession. The transference of this seizin from the person seized to some other used to be made by *livery of seizin*, which was said to be of two kinds—livery in deed, and livery in law. The former consisted in the delivery on the land to the transferrer of some twig or other symbol of the land, accompanied by the words "Enter and be seized;" livery in law was not made on the land, but in sight of it only. But now, by 8 & 9 Vic. c. 106, it is provided that a feoffment (which is the technical word for endowing another with the seizin), other than a feoffment made under a custom by an infant, shall be void at law unless evidenced by deed. (See Williamson "The Law of Real Property," p. 127, sixth edition.)

Select Committee. A committee of parliament composed of certain members appointed by the House to consider or inquire into any specified matter, and to report thereon for the information of the House.

Select Vestry. See title "Vestry."

Semble means *it appears*. It is usually applied where it appears that such a view of a case is the correct one.

Sentence of Death Recorded implies that the verdict technically justifies a sentence of death, but that there is some mitigation of the crime which operates to prevent the sentence from being carried into effect. It is generally commuted into penal servitude for life or for a period of years.

Separate Estate. This expression arises in two forms. The property of a married woman is her separate estate under the law of Husband and Wife. In bankruptcy, when a firm of partners fails, the private property of each partner is his separate estate, out of which his private creditors are entitled to be paid in full if the property is sufficient, the residue being liable for the debts of the firm.

Separation Deed. Such is the name of the deed resorted to when a husband and wife have agreed to live apart upon terms stated. It usually has reference to the disposal and appropriation of property, for which purpose trustees are appointed, who have power to enforce the terms of the deed so far as the property is concerned; but, as a separation of the persons, there is no possible means of giving vitality to such a deed. It is of no more value for that purpose than so much waste paper, and either of the parties is at full legal liberty to disregard it, always bearing in mind that any forfeiture of advantage with respect to property holds good if provided in the deed; but, even in that respect the husband's liability to maintain his wife cannot be

set aside under any circumstances until her infidelity is proved, or until judicial separation or divorce be obtained.

Separatists, by the Act 3 & 4 Will. IV. c. 82, are entitled, under all circumstances, to make affirmation in lieu of taking an oath; but what a separatist is does not appear to be defined. According to the letter of the law, it seems that any person who declared himself to be a separatist must be allowed to affirm.

Septennial Act. At common law no limit was placed to the natural duration of a parliament, except that it became *ipso facto* dissolved at the death of the sovereign who had summoned it. The statute 6 Will. and Mary, c. 2, called the Triennial Act, was passed to limit the duration of a parliament to three years. But by the statute 1 Geo. I. st. 2, c. 38, it being then considered dangerous at such a critical period to have fresh elections, this term was prolonged to seven years. Thus the House that was elected for three years enacted its own continuance for seven. This Act—called the Septennial Act—is still law, and under it the parliament must expire or die a natural death at the end of every seventh year, if not sooner dissolved by the royal prerogative.

Sequestration. A species of execution proper only to ecclesiastics, which is given when the sheriff, upon a common writ of execution issued, returns that the defendant is a beneficed clerk, not having any lay fee. In this case a writ goes to the bishop of the diocese, in the nature of a *levari* or *fieri facias* (see those titles), to levy the debt and damages *de bonis ecclesiasticis*, which are not to be touched by lay hands; and thereupon the bishop sends out a sequestration of the profits of the clerk's benefice, directed to the churchwardens, to collect the same and pay them to the plaintiff till the full sum be raised.

Serjeants-at-Arms. Officers attending the sovereign's person to arrest individuals of distinction offending, and give attendance to the Lord High Steward of England, sitting in judgment on any traitor, &c. Two of these by the royal permission attend on the two Houses of Parliament, and each has a deputy; the office of him in the House of Commons is the keeping of the doors, and the execution of such commands touching the apprehension and taking into custody of any offender, as the House shall enjoin him. Another of them attends the Chancery Division, and one attends on the Lord Treasurer of England; also one on the Lord Mayor of London on certain solemn occasions.

Serjeants-at-Law, or of the coif (*servientes ad legem*); other-

wise called "serjeants counter," the highest degree in the common law, as "doctor" is in the civil law. Serjeants-at-law were abolished by the Judicature Act of 1878.

Serjeant, The Common. A judicial officer in the City of London, who attends the Lord Mayor and court of aldermen on court days, and is in council with them on all occasions within or without the precincts or liberties of the City. The common-serjeant is also one of the judges of the Central Criminal Court, and he also frequently sits as judge in the Lord Mayor's Court.

Servants. Though the popular acceptance of a servant is one employed in domestic avocations, the designation legally extends to every person who serves another for a stated rate of payment, whether called wages or salary. The designation includes apprentices, workmen, shop assistants, clerks, managers, and all who do any kind of service in consideration of payment by any other person or persons. The duties of a servant are strictly limited to the sphere implied by the circumstances, or by a course of experience, or by specific definition, either verbally or in writing. In the ordinary course a lady's-maid cannot be legally required to wash dishes, nor a kitchen-maid to dress hair. A bricklayer cannot be required to keep books, nor a clerk to lay bricks. An apprentice is under no obligation to clean his master's boots, nor a clerk to sweep the office. But if a servant, in any specified capacity, repeatedly does extra duty of any kind without protest, the obligation to continue to do so arises by implication and can be legally enforced.

Servants, Conspiracy of. An Act was passed in 1875 (38 & 39 Vic. c. 86) to amend the law relating to conspiracy and to the protection of property, and for other purposes. The principal object of the Act is to punish strikes of workmen employed in the supply of gas or water. Breach of contract by any such workman is punishable with a penalty of £20, or imprisonment, with or without hard labour, for three months. The like punishment is provided where any workman breaks a contract so as to cause injury to persons or property.

Responsibility of Employers. The same Act prescribes a penalty of £20, or imprisonment for six months, with or without hard labour, upon every master who neglects to provide food, lodging, or other necessities for his apprentice or servant, whenever he is under legal obligation to do so.

Wages in Public Houses. See "Wages."

Service has many legal significations. It is the duty of every servant within his sphere, or according to the custom

established by experience. In ancient times it was the duty of an inferior tenant to a superior tenant, now universally merged into payment of rent. It is the expression universally used to describe the legal delivery of any document to another person, generally called "service of process." (See "Substituted.")

Servitor was anciently equivalent to servant. It applies now to a special class of students in Oxford University. It also describes the officer whose duty it is to serve process of law.

Servitude literally means slavery, and so applies to penal servitude. It was anciently used to describe an easement; it now legally applies to the term of an apprenticeship, or articles of clerkship.

Sess is an ancient word equivalent to "tax." It still prevails in Ireland.

Session of Parliament. When parliament has assembled, its sitting or session continues until the sovereign either prorogues or dissolves it. A dissolution puts an end to the parliament altogether; a prorogation puts an end to the session. An adjournment is nothing more than the continuance of the session from one day to the other. An adjournment of the one House is no adjournment of the other.

Session, Court of, in Scotland. The supreme civil court of Scotland.

Sessions. A sitting of justices of the county in court upon their commission, as the session of oyer and terminer, gaol delivery, &c.

Sessions of the Peace. Sittings of justices of the peace for the execution of those powers which are confided to them by their commission, or by charter, and by numerous statutes. They are of four descriptions. 1. Petty sessions. 2. Special sessions. 3. General sessions. 4. General quarter sessions. Of these, petty sessions are every meeting of two or more justices in the same place for the execution of some power vested in them by law, whether had on their own mere motion, or on the requisition of any party entitled to require their attendance in discharge of some duty. (See "Petty Sessions.") A special sessions is also a sitting of two or more justices, but holden, not of their own mere motion or private agreement, but on a particular occasion for the execution of some given branch of their authority, after reasonable notice to all the other magistrates of the hundred or other division of the county, city, &c., for which it is convened and holden, has been served personally or by post, subject to 7 & 8 Vic. c. 88. General sessions.

is a court of record holden before two or more justices, whereof one is of the quorum, for execution of the general authority given to justices by the commission of the peace and certain Acts of Parliament. The only description of general sessions now holden is the Court of General Quarter Sessions; except in the counties of Middlesex, Lancaster, and the West Riding of Yorkshire, where, besides the four quarter sessions, four general sessions are held in the intervals. General quarter sessions is a court of oyer and terminer and a court of record. (See also "Quarter Sessions" and "Justices of the Peace.")

Set-off is the putting of one debt against another. It generally amounts to an acknowledgment of the debt first claimed, but if the set-off be proved it must be allowed. It applies to all just claims, even though they be otherwise barred by limitation of time. Thus, a debt of six years' standing due to A. cannot be recovered by him from B. But if B. supplies A. with goods and sues A. upon them, the former debt due to A. revives, and can be effectually pleaded as a set-off.

Sets of Bills are two or more bills relating to the same amount, the meeting of any one of the set extinguishing all claims in respect of the other or others. Such sets of bills can only legitimately arise out of transactions beyond sea. The system has its origin and justification in the probability of loss by shipwreck. Three of a set being remitted by three different ships, the arrival of either at its destination effects the intended purpose; the other two are presumed to be lost, and if they are presented they are cancelled. When the first arrives first, the ordinary course is simple; but if the second or third should arrive first there is considerable opportunity for fraud, for which the law scarcely provides. It is a very complicated subject.

Setting Down is entering a cause in the list of forthcoming business of any court, though the literal process is putting up.

Settled Estates. Two Acts were passed on this subject in 1877 (40 & 41 Vic. cc. 18 and 31). The former confers new powers with reference to leases and sales of settled estates by introducing the jurisdiction of the High Court of Justice into such matters, giving the court authority to sanction and confirm leases and sales that were previously illegal. Independently of the court, any person entitled to the possession or to the receipt of the rents and profits of any settled estates for an estate for any life, or for a term of years determinable with any life or lives, or for any greater estate, may grant a lease thereof for any term not exceeding twenty-one years providing that no

such lease can be granted if the deed of settlement expressly forbids such leases, and no such lease can extend to the principal mansion house and the demesnes thereof, and other lands usually occupied therewith.

Water Supply. The second of the Acts of 1877 was passed to give further facilities to landowners of limited interests, in England and Wales and Ireland, to charge their estates with the expenses of constructing reservoirs for the storage of water and other similar purposes, and any such limited owner may charge his estate with subscriptions or shares in any water company that is likely to be advantageous to his estate; and if he constructs a reservoir of his own, he is at liberty to contract for the supply of water to any person or public authority.

Settled Land Act. A further Act entitled "The Settled Land Act, 1882" (45 & 46 Vic. c. 38), was passed for facilitating sales, leases, and other dispositions of settled land, and for promoting the execution of improvements thereon. This Act deals with sale; enfranchisement; exchange; partition: giving new powers under all those heads, but without affecting the broad principles of settlements and entail, which remain untouched.

Settlement, Act of. In order to obviate the confusion that was likely to arise as to the right of the Crown, in the event (which actually occurred) of there being no surviving issue of William and Mary, of the Princess Anne, or of William, it was found necessary, in 1700, to fix more definitely the succession of the Crown; and it was limited to the Princess Sophia, Electress of Hanover, and her heirs, she being granddaughter of James I., and the next in succession who held the Protestant faith. In the statute by which this was done, called "The Act of Settlement," several very important constitutional provisions were introduced, which demand the profound study of the legal and political student, as establishing the principle that the Crown is a limited power, not necessarily hereditary, and subordinate to Parliament, which is supreme in that and all other respects.

Settlement, Poor Law. The law by which a person is held to be settled in a particular parish, so as to be entitled to be relieved, in certain cases, out of the poor-rates levied on such parish. The modern law of settlement is derived from the 13 & 14 Car. II. c. 12. Under it a settlement might be acquired by the following methods:—1. *By birth.* For wherever a child is first known to be, that is always *prima facie*, and until some

other can be shown, its place of settlement. But if its parents can be proved to have acquired, by birth or otherwise, a settlement in another parish, the *prima facie* settlement of the child is then superseded by a derivative one, viz., the settlement by parentage. 2. *By parentage.* All legitimate children take the last settlement of the father, and, after his death, of the mother, till they are emancipated from the parental authority by marriage, or by attaining the age of twenty-one and living permanently separate from the parent, or by contracting some relation inconsistent with domestic subjection; and when emancipated, they retain the parental settlement last acquired before that event took place. A bastard child was formerly held incompetent to claim a derivative settlement; but now, by the Poor Law Amendment Act of 1834, an illegitimate child follows the settlement of its mother, until he attains the age of sixteen or gains another for himself. 3. *By marriage,* a female gains the settlement which belongs to her husband. 4. *By renting a tenement,* coupled with residence in the same parish for forty days. For this purpose, however, it is now requisite that the party should have *bonâ fide* rented a tenement, for the sum of £10 a year, at the least for one whole year, and that he should have paid at least one year's rent, and have been rated to and have paid the poor-rate in respect thereof. 5. *By being bound apprentice* by indenture or other deed, and *inhabiting* for forty days under such binding. 6. A settlement is gained, of a temporary kind, in any parish by having an estate of one's own there, of whatever value. 7. *By being charged to and paying the public taxes and levies of the parish,* but only when the tenement in respect of which he shall have been charged shall be of the annual value of £10. When a pauper is sought to be removed, it is necessary to take him before two justices of the peace for examination; and on proper evidence being given of his settlement, the justices will make the order of removal, which is an authority to the overseers to take or send the pauper to the overseers of the parish of settlement. If, however, the pauper is too ill to travel, the justices may suspend the execution of the order. When a pauper is to be removed, the removing parish is bound to give notice to the parish of settlement. The latter parish may appeal against the order to the quarter sessions holden for the county in which the removing parish is situate.

Before the Poor Law Amendment Act, 1834, a settlement might also be gained—1. By hiring and service; which was where a person, being unmarried and childless, was hired for a

year and served a year in the same service. 2. By executing any public annual office or charge within the parish for one whole year. These two modes of gaining a settlement were, however, abolished by the before-mentioned Act of 1834.

Unless a pauper has acquired a settlement on one or other of these grounds in the parish or union where he receives relief, he is liable to be removed compulsorily to the parish where he last acquired a settlement. Certain persons, however, cannot be removed, and these are called the "irremovable poor." For most purposes of settlement, the union is now the area taken instead of the parish. (See "Union Chargeability Act.")

Sewers. See "Public Health."

Sexton. An ancient parochial officer, who, in the ordinary course, is chosen by the rector, though sometimes by the parishioners, when a usage to that effect prevails. His salary depends on custom, and is paid by the churchwardens; his duty is to cleanse the church, to open the pews, to dig and fill up the graves for the dead, to provide candles and other necessaries, and to prevent disturbance in the church.

Shack is a kind of stinted common, sometimes called "common of shack," which entitles certain specified commoners to grazing after harvest. (See also "Lammas.")

Shelley's Case is a notable one, in 1581, which serves as a precedent in certain contingencies that may arise in connection with entailed estates. This case is presumed to settle sundry abstruse principles of law which it behoves every earnest student to master at length.

Sheriff. The sheriff is an officer of very great antiquity, the name being derived from "shire-reeve," the reeve, bailiff, or officer of the shire. The custom now is that all the judges, together with the other great officers and privy councillors, meet on the morrow of St. Martin, and then and there the judges propose three persons for each county, to be reported (if approved of) to the king, who afterwards appoints one of them to be sheriff. And such appointment generally takes place about the end of the following Hilary Term. The election of the sheriffs of London and Middlesex was granted to the citizens of London for ever by a charter of Henry I., upon condition of their paying £300 a year to the king's exchequer. In the year 1799, the corporation of London made a bylaw imposing a fine of £400 upon every person who, being elected, should refuse to serve the office of sheriff. Sheriffs, by numerous old statutes, are to continue in their office no longer than one year. By 1 Rich. II

c. 11 no person who has served the office of sheriff for one year can be compelled to serve the same again within three years after, if there be other sufficient person within the county. But the discharge of the office is in general compulsory upon the person chosen; and if he refuses to serve, having no legal exemption, he is liable to indictment or information. The powers and duties of the sheriff are various. They are either as a judge; as keeper of the king's peace; as a ministerial officer of the superior courts of justice; or as the king's bailiff. In his *judicial* capacity he has to hold a county court within his county for the election of knights and coroners of the shire, the proclamation of outlawries, and the like. The sheriff has also a judicial power (exercised in the person of the under-sheriff) in the assessment of damages under writs of inquiry, in cases where the defendant has suffered judgment to go against him by default. As the *keeper of the king's peace*, both by common law and special commission he is the first man in the county. In his *ministerial* capacity, the sheriff is the returning officer for his county in parliamentary elections, and as such is ineligible to be elected for the county of which he is sheriff. He is also bound to execute all process issuing from the superior courts of justice, and in this respect he is considered an officer of those courts. In civil causes he must summon and return the jury; when the cause is determined, he must see the judgment of the court carried into execution. And in all these matters he is liable, like other ministerial officers, for the negligent or improper discharge of his duty, at the suit of the party aggrieved. In criminal matters also he arrests and imprisons; he returns the jury; he has the custody of the accused; and he executes the sentence of the court, though it extend to death itself. The sheriff, together with the constable and certain other officers of the king, is forbidden by the express provisions of Magna Charta to hold any pleas of the Crown, or, in other words, to try any criminal offence. Neither may he act as an ordinary justice of the peace during his year of office. As the *king's bailiff*, it is the sheriff's business to preserve the rights of the Crown. He must seize to the sovereign's use all lands devolved to the Crown by attainder or escheat; must levy all fines and forfeitures, and must seize and keep all waifs, wrecks, estrays, and the like, unless they be granted to some subject. To execute these various duties, the sheriff has under him sundry inferior officers—an under-sheriff, bailiffs, and gaolers. By 3 & 4 Will. IV. c. 42 every sheriff is also directed to appoint a sufficient deputy,

having an office within a mile of Middle Temple Hall, for the receipt of writs, granting warrants thereon, making returns thereto, and accepting all rules and orders made as to the execution of any process or writ directed to the sheriff. Gaolers are also the servants of the sheriff, and he must be responsible for their conduct. Their business is to keep safely all such persons as are committed to them by lawful warrant; and if they suffer any such to escape, the sheriff shall answer it to the Crown if it be a criminal matter—or, in a civil case, to the party injured. The vast expense which custom had introduced in serving the office of high-sheriff was grown such a burden to the subject, that it was enacted by statute 13 & 14 Car. II. c. 21, that no sheriff—except of London, Westmoreland, and towns which are counties of themselves—should keep any table at the assizes except for his own family, or give any presents to the judges or their servants, or have more than forty men in livery; yet, for the sake of safety and decency, he may not have less than twenty men in England, and twelve in Wales, upon forfeiture, in any of these cases, of £200.

Sheriff (in Scotland), The. The chief local judge of a county.

Sheriff's Court in London. By the general Act for establishing county courts all over the kingdom, it was provided that no such court should be established in the city of London, the recovery of small debts being there vested in the sheriff's court. This court has a jurisdiction similar, in general, to that enjoyed by a county court.

Ships. The law relating to the ships of this country is for the most part contained in the Merchant Shipping Acts of 1854 (17 & 18 Vic. cc. 104 and 120); 1862 (25 & 26 Vic. c. 63); 1867 (30 & 31 Vic. c. 124); 1871 (34 & 35 Vic. c. 110); 1872 (35 & 36 Vic. cc. 73 and 85); 1873 (36 & 37 Vic. c. 85); 1876 (39 & 40 Vic. c. 80). The last of these Acts is in substitution and repeal of an Act of the previous year, and is generally known as Plimsoll's Act, because resulting from the action of Mr. Plimsoll. It provides for the detention of unseaworthy ships; against the overloading of foreign ships; passenger steamers and emigrant ships; grain cargoes; deck cargoes; deck and load lines; investigation of casualties by Wreck Commissioners, &c. Short Acts supplementary to the foregoing were passed in 1877 (40 & 41 Vic. c. 16) for the removal of wrecks; 1879 (42 & 43 Vic. c. 72), for investigation of casualties; 1880 (43 & 44 Vic. cc. 18 and 22), with reference to joint owners and fees and expenses

payable to the Board of Trade; 1882 (45 & 46 Vic. c. 55), with reference to the Mercantile Marine Fund, and expenses of prosecutions.

Passengers' Acts. These Acts also relate to shipping, especially with reference to the safety and welfare of passengers by sea. They include the Acts of 1855 (18 & 19 Vic. c. 119); 1863 (26 & 27 Vic. c. 51); which, together with the Acts previously mentioned, form a very voluminous study.

Pilotage. This subject is specially dealt with by the Acts of 1825 (6 Geo. IV. c. 125) and 1843 (16 & 17 Vic. c. 129). (See also "Fisheries.")

Ship's Papers. These are the documents which every ship is required to be possessed of on the high seas, in order to authenticate the ship and to establish the right of the captain to authority therein. Every ship without papers is presumed to be fraudulently held, or to be a pirate until the contrary is specifically proved.

Shire. See "County."

Shrievalty. The office of sheriff or the term of his service.

Sidesmen are the official assistants of churchwardens, recognized in some churches but unknown in others.

Sign Manual is the signature of the king or queen.

Signet is the private seal of the king or queen.

Silk Gown is the robe which a Queen's Counsel is entitled to wear.

Simony is the illegal selling of appointments in the Church, and, according to the strict letter of the law, it is never permitted: thus, when a living is actually vacant, no one is allowed to sell or purchase it; but, in spirit, simony is permitted, inasmuch as it is common for the right of next presentation to be sold when the living is not actually vacant, but is expected to become so shortly, and such sales are sanctioned and sustained by the law, and are acted upon frequently.

Simple Contract is a legal obligation entered into in the ordinary course of business, to be implied by circumstances (such as the delivery and acceptance of goods) or by a specific promise, or by any kind of writing where no seal is formally attached. All common debts are incurred by simple contracts.

Sine Die is an accepted expression denoting that something is adjourned or deferred for an uncertain time, *without day* appointed for resuming the subject.

Sinecure. The literal meaning of this word is "without cure of souls," and was in old times exclusively applied to an

incumbent who took tithes or other income of a benefice but had no duties to perform. In modern times the word applies to all official positions that confer incomes without enforcing duties.

Singular occurs in the expression *all and singular*, meaning *all* and every person individually.

Sinking Fund. The surplus revenue of the kingdom beyond the actual expenditure, which is directed to be applied towards the reduction of the national debt. It is regulated by 10 Geo. IV. c. 27; amended by 3 & 4 Will. IV. c. 24 and 21 & 22 Vic. c. 38.

Sittings after Term are trials heard and adjudicated upon after a term is ended. They were formerly very irregular in their operation, but are now subject to new provisions under the Judicature Act, 1875.

Sittings in Banc. See "Banc."

Sittings in Camera are those which occur in the private room of the judge instead of open court.

Sittings in London and Westminster are those set apart for cases arising in London and Middlesex, occasionally extending beyond that area.

Six Articles. Articles of religion in time of Hen. VIII.

Slander is spoken words of defamation, as distinguished from libel, which is written or printed defamation.

Slate Mines. An Act was passed in 1882 (45 Vic. c. 3) to amend the law relating to the use of gunpowder in slate mines.

Slave Trade. Slavery being abolished throughout the British dominions, it is simply illegal and impossible, but with reference to the attempts of other people to enforce slavery we have some laws in force. The Slave Trade Act, 1873 (36 & 37 Vic. c. 59) and 1879 (42 & 43 Vic. c. 38), deal with the present law under this head.

Small Debts Courts were formerly numerous throughout the country. They are nearly all superseded by the county courts.

Small Tithes are those taken by the vicar as distinguished from the rector.

Smuggling is the surreptitious or forcible importation of goods contrary to law; that is, when their importation is prohibited, or where the importation is chargeable with an import duty which is evaded. The penalty is generally £100 and treble the value of the goods imported.

Socage. The name of an ancient tenure of land. **Socage**,

in its most general and extensive signification, seems to denote a tenure by any certain and determinate service—as rent, homage; fealty or corporal service, as ploughing the lord's land for three days; or by fealty only, without any other service.

Soldiers. See “Army.”

Solicitor. Under the Judicature Act, 1873, every person (excepting barristers) who is entitled to act as a legal practitioner is a solicitor of the Supreme Court. The Acts which for the most part govern the law relating to solicitors are those of 1848 (6 & 7 Vic. c. 73); 1860 (23 & 24 Vic. c. 127); 1870 (31 & 34 Vic. c. 28); 1874 (37 & 38 Vic. c. 68); and 1877 (40 & 43 Vic. c. 25); to which are added the Legal Practitioners' Act, 1875 (38 & 39 Vic. c. 79); 1876 (39 & 40 Vic. c. 66); 1877 (40 & 41 Vic. c. 62), which makes special provision for examinations and fees.

Solicitor-General. A law officer of the Crown, appointed by patent, and holding office during the continuance of the ministry of which he is a subordinate member. He ranks at the bar next after the attorney-general. His duty is, in conjunction with the attorney-general, to advise the government on questions of law, and to conduct public prosecutions and otherwise appear for the Crown. By a Treasury minute, dated 14th of December, 1871, the solicitor-general is to receive £6,000 a year for non-contentious business, besides fees for court business and for opinions connected therewith, according to the usual professional scale. By the same minute, it was arranged that all complimentary briefs for services not intended to be rendered should be abolished.

Solitary Confinement. The Criminal Law Consolidation Acts of 1861 each provide that no offender shall be kept in solitary confinement for a longer period than one month at a time, or for more than three months in a year.

Sophia. See “Princess Sophia.”

Speaker of the House of Commons. This great officer is the spokesman or organ of the Commons; in modern times, he is more occupied in presiding over the deliberations of the House than in delivering speeches on their behalf. Among the duties of the Speaker are the following:—To read to the sovereign petitions or addresses from the Commons, and to deliver in the royal presence, whether at the palace or in the House of Lords, such speeches as are usually made in behalf of the House of Commons; to manage, in the name of the House, when counsel, witnesses, or prisoners are at the bar; to reprimand

persons who have incurred the displeasure of the House ; to issue warrants of commitment or release for breach of privilege ; to communicate in writing with any parties, when so instructed by the House ; to exercise vigilance in reference to private bills, especially with a view to protect property, or the rights of individuals, from encroachment or injury ; to express the thanks or approbation of the Commons to distinguished personages ; to control and regulate the subordinate officers of the House ; to entertain the members at dinner, in succession at stated periods ; to adjourn the House if forty members are not present ; to appoint tellers on divisions. The Speaker abstains from debating ; when, however, the House resolves itself into committee, the Speaker leaves the chair, and then in committee he may take part in the debate. As chairman of the House, his duties are the same as those of any other president of a deliberative assembly. When parliament is about to be prorogued, it is customary for the Speaker to address to the sovereign, in the House of Lords, a speech recapitulating the proceedings of the session. Should a member persevere in breaches of order, the Speaker may "name" him (as it is called)—a course uniformly followed by the censure of the House being passed on such member. In extreme cases the Speaker may order members or others into custody, until the pleasure of the House is signified. On divisions, when the members are equal, the Speaker has the casting vote ; otherwise he never votes. He is chosen by the House of Commons from among its members, subject to the approval of the Crown, and holds office till the dissolution of the parliament in which he is elected. His salary is £6,000 a year, with a furnished residence. At the end of his official labours he is rewarded with a peerage and a pension of £4,000 a year for two lives. He is a member of the Privy Council, and ranks next after barons. It has been usual of late years (since the passing of 17 & 18 Vic. c. 84) to appoint a Deputy-speaker to act in the Speaker's absence. The Deputy-speaker is generally also the chairman of the Committee of Ways and Means.

Speaker of the House of Lords. The Lord Chancellor, by virtue of his office, becomes, on the delivery of the seal to him by the sovereign, Speaker of the House of Lords. He is usually, though not necessarily, a peer. There has always been one Deputy-speaker, and up to the year 1815 there were two or more. The chairman of committees generally fills this office. In the absence of the Lord Chancellor and of the Deputy-speaker, it is competent to the House to appoint any lord to take the

woolsack. The Speaker is the organ or mouthpiece of the House, and it is therefore his duty to represent their lordships in their collective capacity, when holding intercourse with other public bodies or with individuals. He has no casting vote upon divisions; for should the numbers be equal the non-contentes prevail. He, however, takes part in the debates and divisions, like any other peer. The Deputy-speaker of the Lords is appointed by the Crown.

Special Constables are men sworn in to act as constables on any special occasion or emergency. They have, during the term of their appointment, all the powers and immunities of regular constables.

Special Jury. A jury consisting of persons who, in addition to the ordinary qualifications, are of a certain station in society. (See "Jury.")

Special Paper is a separate list of causes put down for hearing on days expressly appointed for deciding points of law.

Special Plea is one that does not deny what is alleged, but justifies or excuses it in the interest of the defendant, or that it is barred or set-off by matters affecting it.

Special Pleader is a barrister or licensed solicitor who lays himself out for the preparation of special pleas upon cases submitted to him in writing.

Special Sessions are those held for special purposes as for licensing.

Specialty Debt is one evidenced by a bond or other deed under seal, or evidenced by a judgment that carries with it the right of enforcing payment by execution.

Specific Legacy is some definite thing or amount of money. If the thing be disposed of by the testator before his death, the legacy is void. If it be a stated amount of money, it is payable immediately after all debts are discharged, having priority over general legacies.

Specific Performance is when a person who has failed to carry out a contract is compelled to do so without the option of paying damages for default. It is usual to proceed for a mandamus requiring the defaulter to fulfil his specific obligation, subject to heavy penalties and costs for failing to do so.

Spencer's Case is an important precedent with reference to covenants under leases.

Spinster means an unmarried woman, the designation being derived from the practice of the daughters of all ranks of families spinning wool into thread—hence the expression "homespun."

£10 and under	£50	£20 0 0
50 ..	100	25 0 0
100 ..	200	30 0 0
200 ..	300	35 0 0
300 ..	400	40 0 0
400 ..	500	45 0 0
500 ..	600	50 0 0
600 ..	700	55 0 0
700 or above	.. .. .	60 0 0

Hotels and Inns. Where, in the case of premises of the annual value of £50 and upwards, it is proved to the satisfaction of the excise authorities that the premises are structurally adapted for use as an inn or hotel for the reception of guests and travellers desirous of dwelling therein, and are mainly so used, the amount of duty to be paid on a licence to retail spirits cannot exceed £20, however high the value of the premises may be; provided that no portion of the premises must be set apart and used as an ordinary public-house, for the sale and consumption therein of liquors, and the annual value of such portion exceeds £25.

Hours of Business. Every licence for the sale of spirits carries with it the obligation to conform to the regulations for the time being in force for determining the hours during which business may be carried on and when it must be suspended.

Further Particulars on all these points are given at length in Ward and Lock's book on the "Licensing Laws."

Methylated Spirits are those which are rendered so nauseous by the mixture therewith of wood naphtha as to render them impossible for drinking. The object is to prevent them from being used as beverages, though available for the making of varnishes and other productions, and in such cases the duty is entirely remitted, or, where it has been paid, a drawback of the full duty is allowed. The methylation of spirits is subject to restrictions and regulations, with penalties of great severity for infringements. Persons who are licensed to sell spirits for drinking are not allowed to retail methylated spirits on any terms. Licences are granted by the excise authorities to other persons at £2 2s. per annum, subject to the regulations, infringement of which involves a penalty of £50.

Register of Premises. Amongst the numerous obligations to which every person in the spirit trade is under, every one who is licensed is under obligation to register with the excise authorities the whole of the premises where spirits are stored or where business is carried on, and neither storing nor trade must be permitted elsewhere, subject to heavy penalties.

Spiritual Courts. The Ecclesiastical Courts have always been so called.

Spoilation, in ancient times, was the taking by one incumbent of a benefice the emoluments belonging to another incumbent. Of late years the word has been used in a much broader sense.

Springing Use is the right to use for the future.

Stamps. The Acts which govern the present stamp law are those of 1815 (55 Geo. III. c. 184) and 1870 (33 & 34 Vic. c. 97). Drawing a bill upon unstamped paper subjects the drawer to a penalty of £10, and the like liability is incurred by giving a receipt for £2 or upwards without the same being duly stamped. A penalty of the same amount is incurred by every one who draws, presents, or honours a cheque that is not duly stamped. In most other cases the stamping of a legal document is optional. Documents not under seal can generally be stamped without penalty any time within fourteen days after date, and deeds under seal any time within two months, on application at Somerset House or any local stamp-office. Any person is entitled to have any document stamped at any time on tender of the amount of the stamp to which it was originally liable, together with a voluntary penalty of £10. In all such cases the absence of a stamp makes no difference so long as the parties agree; but if they go to law, an unstamped document will not be accepted as evidence. Even then, however, if the document is challenged for lack of stamp, the person who produces it is entitled to demand its admission on payment there and then of the amount of stamp, the penalty of £10 and £1 extra. If the unpaid duty exceeds £10, then interest must also be paid thereon at the rate of 5 per cent. per annum in addition to the penalty.

Standing Orders. General regulations to be observed in passing private Acts through parliament. An edition of the standing orders of both Houses of Parliament is published each year.

Stannaries are certain mining districts, especially in Cornwall and Devonshire, which are subject to the jurisdiction of the Stannaries Courts devised for regulating the rights of miners.

Star Chamber, so called because its roof was decorated with representations of stars, was an arbitrary court under the influence of the Crown, abolished in 1640.

State Trial. This applies in every case where the Government is the prosecutor, either through the attorney-general or

other agency; but custom limits the designation to trials of cases in which persons of high rank have been concerned.

Statement of Claim. Under the Judicature Act, 1875, a plaintiff in the High Court of Justice must, within six weeks after entering an appearance, deliver to the defendant a formal statement of the claim or complaint upon which the action is based, unless the defendant expressly notifies that he does not require such a statement. Should the plaintiff fail to so deliver such statement, and the defendant has not so exonerated him, the action cannot be proceeded with.

Statement of Defence. Within eight days after receipt of the statement of claim before mentioned, the defendant must deliver to the plaintiff a statement of defence, otherwise the plaintiff is entitled to judgment forthwith.

Stationers' Hall. The 5 & 6 Vic. c. 45 authorizes, in every case of copyright, the registration of the title of the proprietor at Stationers' Hall, and provides that, without previous registration, no action shall be commenced for infringement of copyright, though an omission to register is not otherwise to affect the copyright itself. The Hall was founded A.D. 1553.

Status Quo means as we were, or as we are, according to the circumstances. It may mean that the parties agree to return to a former condition of things, or that they are to remain as they are.

Status quo ante bellum means as they were before the war.

Statute or Act of Parliament. A formal written document by which the will of the supreme legislature of the United Kingdom is expressed, in matters of public or private concern.

Statute of Distributions. This is an important Act of the time of Charles II., which regulates the distribution of the personal property of an intestate. Twelve months must elapse before the distribution commences. The widower of an intestate takes the whole of his late wife's personalty. The widow of an intestate takes one-third of her late husband's personalty. Where there is no widower two-thirds goes in shares; where there is no widower nor widow the whole goes in shares. Child or children take the whole available for shares, all to one if only one, if more than one in equal shares *per capita*. Grandchildren whose parents are dead, with an aunt or uncle living, take *per stirpes*; where there is no aunt or uncle living, *per capita*. If all children and grandchildren are dead (not otherwise), great-grandchildren take equally, any one descendant taking all to the exclusion of all who are not descendants.

When no Descendant. When there is no known descendant of an intestate living, personal property is divisible in the following order :—

- (a) Father.
- (b) Mother, if no father, brothers, or sisters living.
- (c) Mother, brothers, and sisters, all equally, if there be no father living.
- (d) Brothers and sisters equally, if there be no father or mother living.
- (e) Half-brothers and half-sisters share as if they were of full blood.
- (f) Children of deceased brothers or sisters take *per stirpes* if any brother or sister be still living ; but *per capita* if all the brothers, sisters, father, and mother of the intestate are dead.
- (g) Grandfathers and widowed grandmothers take before nephews and nieces, if no brother or sister be living.
- (h) Uncles, aunts, great-grandfathers, and widowed great-grandmothers, nephews, and nieces, share equally.
- (i) Step-parents, in any degree, have no claim.
- (j) Widowers and widows of deceased children have no claim.
- (k) Illegitimacy bars all claim.

Thus, *a* takes all, to the exclusion of every inferior claim ; *b* takes all, if there be no claim in either *a* or *c* ; *c*, if there be no *a*, divides equally, to the exclusion of all inferior claims ; *d* and *e*, in the absence of any superior claim, divide equally, to the exclusion of inferiors ; *f* takes before *g*, if any brother or sister be living ; but otherwise after *g* equally with *h*.

No Widow or Widower. When an intestate leaves no widow or widower, the whole personal estate goes to such intestate's children or descendants ; or,

Failing descendants, to next kindred ; or,

Failing kindred, to the Crown.

Statute of Frauds. This very important Act was passed in 1677 (29 Car. II. c. 3) with the intention of preventing what are called civil frauds. It defines the character of transactions that must in all cases be put into writing to make them valid ; it is the basis of all our present mercantile law ; it laid the foundation of the present law as to wills ; it is a comprehensive reference on a great variety of details interesting to every law student, most of the points being dealt with under their respective heads in previous and succeeding pages.

Statute of Limitations. See "Limitations."

Statute Merchant and Statute Staple. These are

both securities for money—the one entered into before the chief magistrate of some trading town, pursuant to the statute 18 Ed. I. called “*De Mercatoribus*,” and thence called a statute merchant; the other pursuant to the statute 27 Ed. III. c. 9, before the mayor of the “staple,” that is to say, the grand mart for the principal commodities or manufactures of the kingdom, formerly held by Act of Parliament in certain trading towns whence this security is called a statute staple. They are both securities for debts acknowledged to be due, and originally permitted only among traders, for the benefit of commerce; whereby not only the body of the debtor may be imprisoned and his goods seized in satisfaction of the debt, but also his lands may be delivered up to the creditor, till out of the rents and profits of them the debt may be satisfied; and during such time as the creditor so holds the lands he is tenant by statute merchant or statute staple. There is also a similar security, the recognizance in the nature of statute staple, acknowledged before either of the chief justices, or (out of term) before their substitutes, the mayor of the staple at Westminster and the recorder of London; whereby the benefit of this mercantile transaction is extended to all the king’s subjects. All these securities, however, have now fallen into disuse, having been long ago superseded by the remedies devised by the bankrupt laws, and other statutes devised for the benefit of creditors.

Stealing is defined as the fraudulent taking away of another man’s goods with intent to deprive the owner thereof. In general, stealing is larceny, but when it is accompanied by aggravation such as housebreaking it is felony.

Stealing of Children. This is involved in the taking away of any person who is under fourteen years of age, with intent to remove such person out of lawful custody. The punishment is imprisonment, with or without hard labour, for two years, or otherwise penal servitude for seven years.

Stipendiary Magistrates. In certain populous districts, viz., in the metropolis and elsewhere, it is the practice to appoint paid (or stipendiary) magistrates. These magistrates generally have vested in them a criminal jurisdiction co-extensive with that usually conferred on justices in petty sessions.

Stirpes, Distribution per. This is provided for in the Statute of Distributions. Distribution *per stirpes* (stir-pees) is by representation, or the reverse of *per capita*. There are four brothers, of whom A. has two children and dies, B. has four children and dies; C., who survives A. and B., then dies childless

and intestate, leaving D., the fourth brother, alive. The property of the intestate brother C. is distributed as follows :—It is divided into three equal shares ; D. takes one share entire ; the two children of A. take one share equally divided between them ; the four children of B. take each only one quarter of the share that would have gone entire to B. had he been alive. Thus, D. takes *per capita*, or in his own right ; but the children of A. and B. take *per stirpes*, or by representation through their respective fathers, hence the shares of individuals are unequal.

Stocks. It was a common punishment in the old time to put drunken persons and other petty offenders in the stocks, which was the name of a machine by means of which the ankles, and sometimes the wrists, were secured in public. The process was at one time resorted to as the most secure imprisonment, but that idea was set aside long since, and putting in the stocks is now mostly abandoned or illegal, though some of the machines still remain.

Stoppage in Transitu. It is the right of every seller upon credit, if he learns that his customer is insolvent, to stop the consignment after it is despatched, any time before its delivery, and this is called stoppage *in transitu*. Every railway company or other carrier, after notification to stop *in transitu*, is liable to the consignor for any loss he may consequently suffer through wrongful delivery after notice.

Stranger, in law, generally means a person who is not a relative.

Striking a Jury. This process occurs when either party to an action has obtained an order for a special jury. Tickets, bearing each the name of a juror on the special jurors' list, are put together and mixed, and forty-eight are drawn one at a time, each party being entitled to object to any one until the number is reduced to twenty-four. Those twenty-four are then summoned, and constitute the panel from which twelve must be selected subject to challenge. This striking of a jury, under the Juries Act, 1870, can only be resorted to by special order of the court.

Striking off the Roll is the removal of the name of a solicitor from the list of persons entitled to be licensed to practise as such. It may occur by request of the person to be struck off, but it is generally done as a punishment for fraudulent or disgraceful conduct.

Stuff Gown is the name of the robe worn by a barrister who is not a Queen's Counsel.

Sturges Bourne's Act. This Act of 1818 (58 Geo. III. c. 69) was passed for the regulation of parish vestries. Subject to some amendments in 1837 (7 Will. IV. and 1 Vic. c. 45), it continues to be the authority for such vestries.

Subject, Natural-born. A natural-born subject is one who is born within the dominions of the Crown of England, that is, within the ligeance of the king; aliens are such as are born without it. But the children of ambassadors born abroad have always been held to be natural-born subjects, for the father, though in a foreign country, owes not even a local allegiance to the prince to whom he is sent. By statute 25 Ed. III. st. 2, all children born abroad, provided both their parents at the time of birth were in allegiance to the king, and the mother had passed the seas by her husband's consent, might inherit as if born in England. By several other modern statutes these restrictions were still further taken off; so that now all children born out of the king's ligeance, whose fathers (or paternal grandfathers) were natural-born subjects, are now deemed to be natural-born subjects themselves to all intents and purposes, unless their said ancestors were attainted or banished beyond sea for high treason, or were at the time of the birth of such children in the service of a prince at enmity with Great Britain. And now, by 7 & 8 Vic. c. 66, persons born abroad of a mother, being a natural-born subject of the United Kingdom, are rendered capable of taking any real or personal estate by devise, purchase, or succession.

Submission is a word sometimes used to denote consent to reference to an arbitrator.

Subornation of Perjury is inducing another to commit perjury.

Subpœna is a writ or notice to a person to attend as a witness on any occasion to which he may be lawfully summoned to give evidence. It sometimes includes a requisition to produce documents, books, or other material proof concerning the matter in hand. Non-compliance with a subpœna incurs a liability to a penalty which may be as much as £100.

Subsidy was formerly a sum of money appropriated to the Crown, but it has of late years been more generally used to describe an aid granted by one Government to another to secure alliance in time of war.

Substituted Service is the delivery of a writ or other process to some person in the stead of the person to whom it is addressed. In some cases this is expressly permitted and defined;

in other cases it is accepted as sufficient when there is evidence that the fact of service has come to the knowledge of the party concerned.

Succession Duty is a tax chargeable upon succession to landed property by any other means than by purchase, usually as a result of the death of the predecessor. It is in lieu of legacy duty, from which landed property is exempt; but the proportions of duty are the same in both cases, so that both kinds of property are so far on an equality. The remaining distinction is that landed property passes without probate or administration.

Sue. This word means to take civil legal proceedings.

Suffragan Bishops. Bishops are styled *suffragan* (a word signifying deputy) in respect of their relation to the archbishop of their province. But formerly each archbishop and bishop had also his suffragan to assist him in the conferring of orders, and in other spiritual parts of his office within his diocese. These in our ecclesiastical law are called suffragan bishops. How this inferior order of bishops may be elected and consecrated is regulated by 26 Hen. VIII. c. 14; but, notwithstanding this statute, it is not usual to appoint them. They should not be confounded with the *coadjutors* of a bishop, the latter being appointed in the case of a bishop's infirmity to superintend his jurisdiction and temporalities, neither of which was within the interference of the former. (See "Bishops.")

Suicide. See "Felo de se."

Sui Juris applies to every one who is legally entitled to perform any legal act, and especially to sue.

Suit has had many legal significations, but it now means an action.

Summary, in law, means proceedings or powers without the intervention of a jury. Summary conviction generally means one that a magistrate is entitled to effect. Summary decision is one by a judge acting within his province in that behalf. Recovery upon a dishonoured bill is expressly by summary process.

Summing up is the charge of the judge to the jury immediately before the consideration of their verdict.

Summons, Writ of. Generally called a writ, as being a writ *par excellence*, the formal instrument which has to be served on a defendant summoning him to appear in the court from which the writ issues to answer the complaint of the plaintiff. If the defendant does not appear according to the exigency of the writ, the plaintiff may sign judgment. If on

such judgment he is entitled to damages of uncertain amount (unliquidated damages), he may then sue out a writ of inquiry before the under-sheriff to assess the damages. If the amount sought to be recovered is a fixed sum, and such sum has been specially endorsed on the writ, the plaintiff is entitled to sign judgment at once for that sum.

Sumptuary Laws were formerly in force restraining persons from dressing superior to their rank. They were totally repealed by various Acts passed in the time of James I.

Sunday. The restrictive laws with reference to Sunday are contained in the Acts of 1625 (1 Car. I. c. 1), which prohibit on Sundays meetings of people out of their own parishes for any sports, and meetings of people in their own parishes for common plays or unlawful sports, under a penalty of 8s. 4d. upon every person concerned; 1627 (3 Car. I. c. 2), which prohibits the avocations of carriers and butchers under penalties of 20s. and 6s. 8d. respectively; 1676 (29 Car. II. c. 7), which provides that no tradesman, artificer, workman, labourer, or other person whatsoever, shall do or exercise any worldly labour, business, or work of their ordinary callings upon the Lord's Day or any part thereof (works of necessity and charity excepted); and that every person of the age of fourteen years or upwards offending in these premises, shall for every such offence forfeit the sum of five shillings; and that no person shall publicly cry, show forth, or expose to sale any wares, merchandises, fruit, herbs, goods or chattels whatsoever upon the Lord's Day or any part thereof, upon pain that every person so offending shall forfeit the same goods so cried or showed forth or exposed for sale. Drovers, horse-courers, waggoners, butchers, and higglers, and navigators of boats and barges, are expressly liable to penalties of five shillings each for following their respective avocations. The Act of 1781 (21 Geo. III. c. 49) provides that any house, room, or place opened or used for public entertainment or amusement, or for publicly debating on any subject whatsoever, upon the Lord's Day, and to which persons shall be admitted by the payment of money, or by tickets sold for money, shall be deemed a disorderly house; the keeper is liable to a penalty of £300 for every Sunday so disregarded, and the manager, master of the ceremonies, moderator, president or chairman, are each liable to a penalty of £100. Tickets issued to subscribers only equally involve the penalty. Advertising or printing an announcement of any meeting in disregard of the Act involves a penalty of £50. By the Act of

1871 (84 & 85 Vic. c. 87), and by its prolongation under continuance Acts, proceedings under the Act of 1676 cannot be commenced except with the authority in writing of the chief officer of police of the police district in which the offence is committed, or with the consent in writing of two justices of the peace or a stipendiary magistrate having jurisdiction there, the persons who give the assent being disqualified for trying the case.

Bakers on Sundays. Quite distinct from the foregoing is the Act of 1836 (6 & 7 Will. IV. c. 37), with reference to bakers; which provides that it is unlawful for any master or mistress, journeyman, or other person exercising or employed in the trade or calling of a baker, to make or bake on Sunday or any part thereof, any bread, rolls, or cakes of any sort or kind, only so far as preparing bread or dough for the following day's baking. Before half-past one on Sundays every baker is at liberty to *sell* to any extent, or to bake for *other persons* to any extent; but after half-past one on Sunday he must not sell or bake or exercise his trade in any way under any circumstances. The penalties for infringement are severe, amounting to £10 for every offence, or imprisonment with hard labour.

Superintendent Registrar is one having the superintendence of the registrars of a registration district.

Superior Courts of Common Law, The. These are the three courts of Queen's Bench, Common Pleas, and Exchequer, as merged into the High Court of Justice.

Supply, Committee of. All bills which relate to the public income or expenditure must originate with the House of Commons, and all bills authorizing expenditure of the public money are based upon resolutions moved in a committee of supply, which is always a committee of the whole House. The practice with regard to these bills is as follows:—In the course of a session estimates are submitted to a committee of supply, and resolutions moved therein granting to the Crown the sums requisite for defraying the expenses of the government. These resolutions having been considered and disposed of, such amongst them as may be affirmed are reported to the House, reconsidered, and adopted or rejected. Under authority of those to which the House agree, the Lords of the Treasury issue the requisite funds for carrying on the service of the country. At the end of the sessions the supply resolutions are consolidated in the appropriation bill, which is sent up to the Lords, and, after being there considered and agreed to, receives the

royal assent and becomes law. The Lords may reject this or any other money bill, but it would be an invasion of the privileges of the Commons if the Lords were substantially to modify measures of this class; the Commons, however, do not object to consider any verbal emendations which may be made by the other House.

Supremacy, Act of. The year 1534 may be considered as the era of the separation of the English Church from Rome. By several Acts of Parliament passed in that year the papal authority in England was annulled, and persons paying any regard to it incurred the penalties of a *præmunire*. Monasteries were subjected to the visitation and government of the king alone, and were shortly afterwards dissolved; bishops were to be appointed by a *congé d'élire* from the Crown, and no recourse was to be had to Rome for palls, bulls, or provisions. The law which had formerly been made against paying *annates* or first-fruits, but which had been left in the king's power to suspend or enforce, was finally established, and a submission was enacted from the clergy by which they acknowledged that convocations ought to be assembled by the king's authority only. The parliament, being again assembled at the end of the year, declared the king "the only supreme head on earth of the Church of England." But though the authority of the Pope was thus shaken off, the Church of England still retained most of the distinctive articles of the Roman Catholic faith. The Reformation, however, made great progress in matters of doctrine in the next reign; but in the reign of Mary the Roman Catholics were again triumphant. Immediately on the accession of Elizabeth the Act of Supremacy was passed, and has ever since, with certain modifications, been the law. It is 1 Eliz. c. 1. It provides for the restoration to the Crown of the supremacy in matters ecclesiastical. In order to exercise this authority, the queen, by a clause in the Act, was empowered to name commissioners, either laymen or clergymen, as she might think proper; and on this clause was founded the Court of High Commission. (See title "Commissioners, High Court of.") The Act provided that all beneficed ecclesiastics, all laymen holding office under the Crown, were to take the oath of supremacy, renouncing the spiritual and temporal jurisdiction of every foreign prince or prelate, on pain of forfeiting their office or benefice. Moreover, whoever denied the supremacy by writing or advised speaking, or attempted to deprive the queen of that prerogative, forfeited, for the first offence, all his goods and chattels; for the second

was subject to the penalty of a *præmunire*, and the third offence was declared treason. Fifteen out of sixteen bishops, refusing to take the oath of supremacy, were deprived of their bishoprics by the Court of High Commission. In the summer of 1559 the queen appointed a general ecclesiastical visitation, to compel the observance of the Protestant formularies. It appears from their reports that only about one hundred dignitaries and about eighty parochial priests resigned, or were deprived of, their benefices.

Supremacy, Oath of. An oath first imposed by the Act of Supremacy (1 Eliz. c. 1), by which the sovereign was recognized as the supreme head of the Church to the exclusion of any foreign prince, person, prelate, state, or potentate. The oath continued until 1858 to be imposed on very large classes of persons as a separate oath. In that year (by 21 & 22 Vic. c. 48) the oaths of supremacy, allegiance, and abjuration were compounded together in one oath, which had to be taken by the holders of all offices, by members of parliament and others. By the Parliamentary Oaths Act, 1866 (29 Vic. c. 19), a new oath was substituted for members of parliament, which omitted the acknowledgment of the Queen's supremacy; and the Act of the next year (80 & 81 Vic. c. 75) prescribes a new form of oath for the oaths of supremacy, allegiance, and abjuration, which also omitted it. The oath of supremacy may therefore now be said to be abolished, so far as Her Majesty's lay subjects are concerned.

Suppressio Verdi is the suppression of the truth by wilfully omitting something materially in favour of an opponent.

Supreme Court of Judicature. This legal designation was first adopted by the Judicature Act, 1873 (36 & 37 Vic. c. 66); amended by the Judicature Act, 1875 (38 & 39 Vic. c. 77). It absorbs within its jurisdiction all the superior courts formerly known as the High Court of Chancery, the Courts of Queen's Bench, Common Pleas, Exchequer, Admiralty, Probate, Divorce, and Bankruptcy in London.

Divisions. The Supreme Court is divided into the High Court of Justice and Her Majesty's Court of Appeal.

High Court of Justice. This includes the Courts of Chancery, Queen's Bench, Common Pleas, Exchequer, Admiralty, Probate, Divorce, Bankruptcy in London, the Courts of Lancaster and Durham, and the Assize Courts. The court is further divided into the Queen's Bench Division, the Chancery Division, and the Bankruptcy Division.

Her Majesty's Court of Appeal. This is an amalgamation of all the previous courts of appeal except the House of Lords, to which there is still an appeal from the Court of Appeal.

Additional Judge. An Act of 1877 (40 Vic. c. 9) provides for an additional judge, and prescribes for ordinary judges the style of Justices of the High Court, and "puisne judge" is defined to be a Judge of the High Court of Justice other than the Lord Chancellor, the Lord Chief Justice of England, the Master of the Rolls, the Lord Chief Justice of the Common Pleas and the Lord Chief Baron, but the two last offices have since been abolished. An Act of 1881 (44 & 45 Vic. c. 68) makes a number of supplementary provisions as to appointment of judges and other matters.

In 1883 there was passed an Act (c. 29) to consolidate the accounting departments of the Supreme Court, to make rules, and for other purposes. The rules made under this Act are of extreme importance, as they make very numerous changes in the mode of procedure and the status and customs previously prevailing amongst barristers.

Surety is one who undertakes to be answerable for another in any manner and under any circumstances expressly provided. There is no limit to the extent to which a surety may be made answerable, but it is a universal rule that a surety cannot be bound verbally; the evidence that he is surety must be in writing. Another rule is that the surety is only answerable for that which is already done. If he undertakes for anything in the future, he is entitled, at any time before the obligation is incurred, to withdraw from his position, and notice of such withdrawal is effectual either in writing or verbally communicated if proved or not disputed. If A. writes that he will be surety to B. in respect of credit given to C. to the extent of £1,000, and C. takes credit for £100, A. is entitled to notify B. that he will not go any further, and his liability is then finally limited to the £100 with power to recover from C., if he can, all the money he actually pays A. on behalf of C.

Surgeon. See "Medical Men."

Surrogate. One who is substituted or appointed in the room of another, as by a bishop, chancellor, judge, &c.; especially an officer appointed to grant licences to marry without banns.

Suspending Power. A power claimed by some of our kings, particularly those of the House of Stuart, of nullifying entirely the operation of a particular statute or statutes. It was at length declared by the first clause of the Bill of Rights, "That

the pretended power of suspending of laws, or the execution of laws, by regal authority without consent of parliament, is illegal."

Sweinmote. One of the ancient Forest Courts.

Syndicate is a voluntary association of persons combining for mutual advantage in the initiation or promotion of some special business, usually the launching of a company.

Synod is a meeting of ecclesiastics for consultation concerning their own interests.

Tail. An estate-tail is a freehold of inheritance, limited to a person and the heirs of his body general or special, male or female.

Tales de Circumstantibus. If a sufficient number of jurors do not appear upon a trial, or if by means of challenge or exemptions a sufficient number of unexceptionable jurors do not remain, either party may pray a *tales* (tay'lees), which is a supply of such men as are summoned upon the panel in order to make up the deficiency.

Talfourd's Acts were passed in 1839 (2 & 3 Vic. c. 54) and 1873 (36 & 37 Vic. c. 12) to enable mothers to obtain custody of their children to the age of seven and sixteen respectively, by petition to Chancery. The Copyright Act, 1842 (5 & 6 Vic. c. 45), is also sometimes called Talfourd's Act, the first and last of those named having been brought in by Serjeant Talfourd, afterwards made a judge, who died suddenly while addressing a jury at Stafford.

Tanistry. An ancient Irish custom.

Taxation of Costs is the process to which every person is entitled to resort when called upon to pay a solicitor. For this purpose taxing masters are appointed under a variety of circumstances, and their power and authority is very great. When a bill of costs consists of the charges of a solicitor which his own client is required to pay, the items are seldom much reduced; they are called costs as between solicitor and client. But when the defeated party to an action is required to pay the costs of his successful opponent, representing costs as between party and party, the tendency is to view every item with the utmost severity and to cut down the amount wherever there is any excuse for doing so. In this way it often happens that a successful plaintiff, who has been extravagant in giving instructions to his solicitor, has to pay him a considerable balance of costs from which the defendant is exonerated by the taxing master; and in some cases the damages do not suffice to cover

the costs which the plaintiff may eventually be required to pay as between himself and his solicitor.

Telegraphs. By "The Telegraph Act, 1868," power was given to the postmaster-general to purchase undertakings of telegraph companies, and power was given to the companies to sell their undertakings to the postmaster-general. The acts, charters, &c., of the several companies thus selling their undertakings are to remain in force, and the powers thereof to be exercised by the postmaster-general. Telegraph companies were empowered, in case the postmaster-general acquired any one undertaking established by special Act of Parliament or royal charter at the time of the passing of this Act, to require the postmaster-general to purchase their undertakings also. Power was also given to the postmaster-general to enter into contracts with certain railway companies, with respect to their telegraphic wires. The postmaster-general may from time to time make regulations for the conduct of business, and may fix charges, &c.; he may also enter special agreements with the proprietors of newspapers, &c., for the transmission of telegraphic messages. The Act was amended by an Act of 1869 (32 & 33 Vic. c. 73), by which, with some few exceptions, a monopoly in sending telegraphic messages was given to the postmaster-general, and penalties were imposed on those who might contravene this provision.

Temple. This remarkable district of the metropolis, between Fleet Street and the Thames, was founded by the Knights Templars—hence its name. At the suppression of the order of Knights Templars their dwelling was purchased by the professors of the common law, and converted into inns of court in 1840. The property is divided into the Inner Temple and Middle Temple, the original Outer Temple (so called as being outside Temple Bar) having ceased to be so called.

Tenant. See "Landlord and Tenant."

Tender is the putting down or otherwise unreservedly placing at the physical control of a creditor the amount tendered. (See "Legal Tender.")

Tenement generally applies to a house and its outbuildings, courts, gardens, &c., but the meaning of the word is not strictly defined. In ancient times it had a wider signification. In modern times the tendency is to abandon the expression, "premises" being generally more convenient.

Tenor. The tenor of a document is its general meaning or significance, and all that can be inferred from it.

Tenterden's Act, so called from its promoter, Lord Tenterden, was passed in 1828 (9 Geo. IV. c. 14), and defines the obligations and liabilities of persons with reference to promises under the Statute of Limitations. It requires all such obligations to be evidenced by writing. It also forms the basis of the present law of bargain and sale.

Tenths. See "Queen Anne's Bounty."

Tenure is the right by which any person holds possession of landed property.

Terms are the periods during which legal proceedings are in full operation, some processes being formerly impossible except during some term. By the Judicature Acts, 1873 and 1875, the observance of terms is abolished for most purposes, and they are likely to disappear altogether.

Test Act. This was an Act which imposed religious tests, in the form of oaths and the obligation to engage in the rites of the Church of England, as necessary preliminaries to the acceptance of any considerable office, including members of parliament. The Act was abolished in 1828.

Testament, in law, is equivalent to will.

Testator or *Testatrix* is a person who makes a will.

Thames Conservancy Board. This body is constituted and empowered by various Acts for the government of the River Thames from Teddington to Gravesend, and for some purposes having jurisdiction above Teddington.

Thames Embankment. This public work was constructed and is maintained under special provisions of an Act of 1862 (25 & 26 Vic. c. 93), which vests the property in the Metropolitan Board of Works. An Act of 1880 (43 & 44 Vic. c. 25) authorizes further expenditure upon the completion of the Cleopatra Needle. An Act of 1881 (44 & 45 Vic. c. 48) authorizes further expenditure for the same object.

Thames Piers. An Act of 1879 (42 & 43 Vic. c. 73) was passed to authorize the Commissioners of Her Majesty's Woods and Forests and Land Revenues to agree with the Conservators of the River Thames on the payments for piers and landing-places in or upon the bed or shore of the Thames.

Theatres. The statute 6 & 7 Vic. c. 68, intituled "An Act for Regulating Theatres," first repeals the then existing enactments as to theatres, and then proceeds to prohibit, under penalties, all persons from keeping or having any house or other place of resort in Great Britain for the public performance of stage-plays, unless they shall have the authority of letters patent from

the Crown, or a licence from the Lord Chamberlain of the Household, or licence from at least four justices assembled at a special session, to be holden in the division where the proposed theatre is to be situate. The jurisdiction of the Lord Chamberlain as to licensing is defined by the Act as extending to all theatres (not being patent theatres) within the parliamentary boundaries of London and Westminster, and within the boroughs of Finsbury and Marylebone, the Tower Hamlets, Lambeth and Southwark, and also within those places where the sovereign occasionally resides. The jurisdiction of the justices extends generally to all places beyond those limits. But it is provided that no licence shall be granted by either of these authorities, except to the actual and responsible manager for the time being, who is to give security for the due observance of such regulations as the authorities may impose; and also that no licence from the justices shall be in force at the Universities of Oxford and Cambridge, or within fourteen miles thereof, without consent of the Chancellor or Vice-Chancellor of the University. Penalties are also imposed on any person who, for hire, acts, or causes to be acted, any part of a stage-play in any place not being a patent theatre or duly licensed. The statute further empowers the justices to make suitable rules for the observance of order and decorum in the theatres to be licensed by them, and for regulating the times when they are to be open; which rules may be rescinded or altered by a Secretary of State; and in case of any riot or breach of rule in such theatre, the justices may order it to be closed. The Lord Chamberlain may also—as to all theatres licensed by him and all patent theatres—order the same to be closed, in case of riot or on any public occasion; and it is provided that one copy of every new stage-play, and of every new act, scene, or part, prologue or epilogue, or new addition to a prologue or epilogue, intended to be acted for hire at any theatre in Great Britain, shall be sent, seven days previously to its being produced, to the Lord Chamberlain for his allowance; and without such license it shall be unlawful to act the same. The Lord Chamberlain is also empowered to forbid, under penalties in case of disobedience, the representation or performance of any stage-play, or any part thereof, in any theatre whatever, where such a course shall appear to him advisable, whether for the preservation of good manners or decorum, or with a view to preserve the public peace.

Theft is defined as the felonious taking and carrying away of the property of another for profit, without his consent.

Thellusson Act. This is a very important Act of 1799 (39 & 40 Geo. III. c. 98), as limiting the power of making settlements. Mr. Thellusson was very wealthy. He made a will which, after providing to some extent for his family, left most of his property for accumulation until all his descendants living at the time of his death were dead. The Act was passed to prevent any such will again by limiting any such disposition to the lives of persons living and twenty-one years afterwards.

Threat is legally defined as a measure calculated to unsettle the mind of the person threatened. Minor cases involve imprisonment for two or three years with or without hard labour. Threats of an infamous or murderous character are subject to penal servitude for life.

Thrashing Machines. An Act was passed in 1878 (41 Vic. c. 72) for the prevention of accidents by thrashing machines. The Act prescribes a penalty of £5 for every infringement of its provisions.

Ticket of Leave. By 16 & 17 Vic. c. 99, 20 & 21 Vic. c. 3, and other Acts, it is made lawful for Her Majesty, by order in writing, under the hand and seal of a principal Secretary of State, to grant to any convict, sentenced to be kept in penal servitude or to be imprisoned, a licence to be at large in the United Kingdom and the Channel Islands, or in such part thereof respectively as shall be expressed in the licence, during such portion of his term, and on such conditions in all respects, as to Her Majesty shall seem fit; and that such licence may be revoked and altered at pleasure; and that, if revoked, the convict may be forthwith apprehended, and recommitted to the prison from which he was released by virtue of his licence, or to any other prison in which convicts under sentence of penal servitude may be lawfully confined. But by the Habitual Criminals Act (82 & 83 Vic. c. 99), section 3, power is given to any constable or police officer, if authorized so to do by a chief officer of police, to take into custody, without warrant, any convict who is the holder of a licence to be at large, and whom he has reason to believe to be getting a livelihood by dishonest means, and may bring him before two or more justices of the peace or a stipendiary magistrate. If it shall appear from the facts proved before such justices or magistrate that there are reasonable grounds for such belief, his licence shall be forfeited in the same manner as if he had been convicted of an indictable offence; and the justices or magistrate before whom he is brought shall commit him to any prison within their or his jurisdiction.

there to remain until he can conveniently be removed to some prison in which convicts under sentence of penal servitude may lawfully be confined, there to undergo the rest of his term.

Time Bargain is a gambling transaction on the Stock Exchange, being a contract to provide shares or stocks at a speculative price for delivery at a future day. By Sir John Barnard's Act of 1793 (7 Geo. II. c. 8) the parties to such a contract were liable to a penalty of £500; but that Act seems to have been systematically evaded with impunity, and it was repealed in 1860 (23 & 24 Vic. c. 28).

Tipstaff, so called because he carries a rod tipped with silver, is the officer into whose custody prisoners are delivered under civil process, and who is responsible for their detention elsewhere than in actual prison.

Tithes are defined to be a tenth part of the increase yearly arising and renewing from the profits of lands. Whatever is of the substance of the earth, or is not of annual increase—as stone, lime, chalk, and the like—is not in its nature titheable.

The payment of tithes, calculated on the real annual profits of the land, is attended with this injustice and inconvenience: that if the farmer, by a larger outlay of capital and by the introduction of new appliances, succeeds in obtaining a larger profit than formerly from the land, the parson gets the benefit of a share in this larger produce, although it has been obtained solely by the increased outlay made and the ingenuity displayed by the agriculturist. To remedy this injustice, the Tithe Commutation Act (6 & 7 Will. IV. c. 71) was passed, and sundry Acts have since been made for its amendment. These Acts establish a board of commissioners under the title of "The Tithe Commissioners for England and Wales," and provide (in general) that the commutation may be effected in one of two ways—either by a voluntary parochial agreement, provided it be entered into by a certain proportion of the parties interested and confirmed by the commissioners; or by the compulsory award of the commissioners. And for this latter purpose the commissioners are required to take as the basis of the commutation (but with power, in certain cases and to a certain extent, to depart from it) the clear average value of the tithes of the parish, or of the composition payable for the same where they have been compounded for, for the period of seven years, ending Christmas, 1835. The value so voluntarily agreed upon or awarded by the commissioners (as the case may be) is to be considered as the amount of the total rent-charge to be paid in

respect of the tithes in that parish, and is to be afterwards apportioned among the lands of that parish, having regard to the average titheable produce and productive quality. And after the apportionment shall have been confirmed, such lands are to be absolutely discharged from the payment of all tithes, and instead thereof shall be subject to their proportion of the rent-charge, which shall be thenceforth payable to the former tithe-owner by two half-yearly payments. The amount of these payments is to fluctuate according to the price of corn; and the machinery for that purpose is as follows:—It is provided, that immediately after the passing of the Act, and also in January every year, an advertisement shall be inserted by authority in the *London Gazette*, stating the average price of wheat, barley, and oats for seven years ending on Thursday before Christmas-day then next preceding, and that every rent-charge shall be deemed of the value of so many bushels of wheat, barley, or oats, in equal quantities, as the same would have been competent to purchase according to the prices inserted in the first advertisement; and that after every 1st of January it shall vary—so as always to consist of the price of the same quantities, according to the advertisement then next preceding. When the rent-charge is in arrear for twenty-one days it may be levied by distress on the land; but if it be in arrear for forty days, and there be no sufficient distress, a writ may be obtained from one of the courts at Westminster to assess the arrears; after which the owner of the rent-charge may sue out a writ of execution for taking possession of the lands and holding them till his debt and costs be fully satisfied. But it is provided that neither the distress nor the writ of execution shall be taken out for more than two years' arrears at any one time. To the extent of twenty acres in the same parish, it is provided that land may be given to the tithe-owner as an equivalent; and any person seized in possession of an estate in fee-simple or fee-tail may dispose of the same so that it may be merged in the inheritance of the lands so charged. The Commutation Acts provide that any person having any interest in any tithes shall have the same claim upon the substituted rent-charge. An Act was passed in 1878 (41 & 42 Vic. c. 42) to amend and further extend the Acts for the commutation of tithes in England and Wales.

Toleration Acts. The statute 1 Will. and Mary, st. 1, c. 18 (confirmed by 10 Anne c. 2), relieved all persons dissenting from the Church of England (except such as denied the Trinity)

from such of the Acts against nonconformity as prevented their assembling for religious worship according to their own forms, or otherwise restrained their religious liberty—on condition, however, of their taking the oaths of allegiance and supremacy, and subscribing a declaration against transubstantiation, and (in case of dissenting ministers) subscribing also to certain of the Thirty-nine Articles. It was also by this Act made penal to disturb any congregation lawfully assembled, or to misuse their preachers—an offence which has been since prohibited under still heavier penalties. But, on the other hand, it provided that no congregation should be allowed under its provisions, unless the place of their meeting had been certified to and registered with the bishop or archdeacon, or at the court of quarter sessions. And it was also provided that the doors of the meeting-house should not be locked, barred, or bolted. To these regulations were added some others for the relief of Protestant dissenters—that when appointed to any parochial office which they might scruple (in respect of the oaths or otherwise) to undertake, they should be at liberty to decline it. By 53 Geo. III. c. 160 that clause of the Toleration Act by which persons denying the Trinity were excepted from its provisions was repealed.

Tonnage and Poundage. Certain duties of three shillings upon every ton of wine imported, and of one shilling in the pound on other articles, which was the original ground of dispute which led to the execution of Charles I.

Tontine is a system of life annuities based upon advances of money by an association of persons, so called because first resorted to by Lorenzo Tonti, a Neapolitan of the 17th century. When judiciously and honestly managed it is a good form of investment; but it has been made the basis of much swindling, and has hence fallen into desuetude.

Tort is a civil wrong irrespective of contract. The most ordinary torts are libel, assault, and trespass, but there is no end to their variety. A tort is an actionable offence, independently of any criminal consequences it may involve.

Tory. Originally a nickname for the wild Irish in Ulster. It was afterwards, in 1679, given to and adopted by one of the two great parliamentary parties which have alternately governed England since the Revolution of 1688. (See “Whig.”)

Tourn. The name of a court anciently held before the sheriff.

Town. The name given to any collection of houses larger

than a village. Towns are either corporate, that is, having a corporation to transact their business, or not corporate. Some have the liberty or franchise of a market, others have not. Towns are usually designated as cities, boroughs, and common towns.

Towns Improvement Act, 1847—10 & 11 Vic. c. 34.

Towns Police Act, 1847—10 & 11 Vic. c. 89.

Trade Fixtures belong to the solvent tenant and may be removed by him, and cannot be taken under a distress for rent or execution unless the other property on the premises is not enough to cover the demand.

Trade Marks. The laws which govern trade marks are for the most part contained in the Acts hereafter mentioned.

1862 (25 & 26 Vic. c. 88). The Merchandise Marks Act, 1862, deals with forging trade marks as misdemeanour; penalty for selling articles with forged trade marks; forgery by addition to trade mark; party selling with forged trade mark bound to give information where he procured it; false statements of quantities; description of trade marks in indictments; conviction not to affect right of action; intent to defraud particular person need not be alleged; abetting; punishment; recovery of penalties; limitation of actions; vendors to be deemed to contract that mark is genuine; destruction of articles by order of court; recovery of damages by parties aggrieved; defendant obtaining verdict to have full indemnity for costs; security for costs by plaintiff; saving for cutlery trade.

1883 (46 & 47 Vic. c. 57). By this Act a trade mark is defined to be:

A name of an individual or firm printed, impressed, or woven in some particular and distinctive manner; or

A written signature, or copy of a written signature, of the individual or firm applying for registration thereof as a trade mark; or

A distinctive device, mark, brand, heading, label, ticket, or fancy word or words not in common use; and

There may be added to any one or more of these particulars any letters, words, or figures; or combination of letters, words, or figures; or any of them; and

A trade mark must be registered for particular goods, or classes of goods.

Legal right in a trade mark is obtainable by registration, to effect which application must be made to the comptroller-general at the Patent Office, on a prescribed form to be there obtained, which states that the applicant claims to be the owner of the

trade mark, an untrue statement being subject to serious consequences to the applicant. The application must be accompanied by representations of the trade mark as prescribed, and must state the particular goods or classes of goods in connection with which the applicant desires the trade mark to be registered. If the trade mark has been in use before August 13, 1875, the time of commencing its use must be mentioned; but if adopted at a later date, the time when its use was commenced is of no importance. The application may be left or sent by post, with the fee prescribed in the current rules.

Unless the comptroller has good grounds for objecting to the registration, he must proceed as soon as may be to advertise the application; and, any time within two months after such advertisement, any person is entitled to give notice of opposition, and the applicant is entitled to be informed of such notice, and has two months wherein to reply to it. If a reply is not received, the application lapses. If it is received, the comptroller must require the objector to give security for costs of opposition. If such security is not given within fourteen days the opposition is deemed to be withdrawn. If it is given the case must be tried, and the like occurs wherever two or more claim to register the same trade mark.

If, after the expiration of two months from the date of the advertisement, there is no opposition, or the opposition is settled in favour of the applicant, the registration may be effected on payment of the prescribed fee any time within twelve months after the date of the application; after which time, if there be no opposition unsettled and the applicant has remained passive, the application becomes void.

Stating that a trade mark is registered when it is not, involves a penalty of £5 for every offence.

The Act provides for numerous details, and exceptional contingencies likely to be of very rare occurrence, but the one important point is that an action for infringement will not lie until after registration.

Trades Unions. The law on this subject is based upon the Trade Union Act, 1871 (34 & 35 Vic. c. 31), which elaborately provides for the legal status of such bodies, while limiting their powers within bounds prescribed.

Tramways. In 1870 an Act was passed (33 & 34 Vic. c. 78) to facilitate the construction and regulate the working of tramways. The Act does not extend to Ireland. By section 4 it is provided that provisional orders authorizing the construction of

tramways in any district may be obtained by the local authority of the district, or by any persons, corporation, or company with the consent of the local authority of such district; or of the road authority of such district where such district is, or forms part of, a highway district formed under the provisions of the Highway Acts. Any such local authority, person, persons, corporation, or company shall be deemed the promoters. The Board of Trade may in certain cases dispense with the consent of the local or road authority. The provisional order thus obtained has subsequently to be confirmed by Act of Parliament. The Act lays down rules as to the formation of tramways, gives the promoters time to break up streets, but obliges them to reinstate the road with all convenient speed. It at the same time throws upon the promoters the obligation to keep as much of the road as lies between the tramway (and where there are two tramways within four feet of each other, the portion of the road between the two tramways) in good repair at their own expense. The Act further empowers the promoters and their lessees to run on their tramways carriages with flange wheels, and gives them the exclusive use of the tramways for carriages with such wheels. Section 35 provides that, if at any time after a tramway shall have been open for three years it shall be represented in writing to the Board of Trade by the local authority of such district, or by twenty inhabitant ratepayers of such district, or by the road authority of any road in which such tramway is laid, that the public are deprived of the full benefit of the tramway, the Board of Trade may make an inquiry; and if the truth of the representation be proved, the Board may from time to time grant licences to any other company or person to use such tramway in addition to the promoters or their lessees. Such licence is to be on certain conditions only, one of which is the payment of tolls by the licensee to the promoters. If after the opening of a tramway the working of it is discontinued for three months, the Board of Trade may order the powers of the promoters to cease, and may take up the tramway. Where the promoters of the tramway are persons other than the local authority of the district, the local authority may after twenty-one years require the promoters to sell the tramway to them. Penalties are imposed by the Act for wilfully obstructing the laying down of tramways, or the working of the same. The body referred to as the local authority is, in London, the Lord Mayor and corporation; in boroughs, the mayor and corporation, and in most other places the vestry.

Tram Cars are involved in the provision of the Customs and Inland Revenue Act, 1883, that the expression "any vehicle drawn by a horse or mule, or horses or mules," shall be extended so as to embrace any vehicle drawn or propelled upon a road or tramway, or elsewhere than upon a railway, by steam or electricity, or any other mechanical power.

Transportation beyond the seas is said to have been first inflicted as a punishment by 39 Eliz. c. 4. Transportation beyond the seas was abolished and penal servitude substituted for it by Acts of 1853, 1857, and 1864.

Traverse is a plea in defence, based upon a denial of the facts alleged. A traverser is one who defends by traversing. The expression is almost obsolete in England, but prevails in Ireland.

• **Treason** is any serious attempt to impair or supersede the authority of the Crown. It was formerly divided into petty treason and high treason, but the distinction is now abolished. The punishment upon conviction for treason is hanging.

Treason Felony was first defined by an Act of 1848 (11 & 12 Vic. c. 12), and is supplemented by later Acts (20 & 21 Vic. c. 3 and 27 & 28 Vic. c. 47). These Acts have really abolished treason in effect though not in the letter; for they define as treason felony the compassing, devising, or conspiring to depose Her Majesty, or to levy war in order to intimidate parliament, or to stir up foreigners by any printing or writing to invasion of the kingdom. The utmost punishment prescribed is penal servitude for life, and it may be as little as five years.

Treasure Trove is money, gold or silver, found hidden in the earth or elsewhere, the owner of which is unknown. It belongs to the Crown, and the fraudulent concealment of it involves fine and imprisonment.

Treasurer, Lord High. The office of Lord High Treasurer was up to the accession of George I. one of the first offices of state. Since the accession of that king it has always been (as, indeed, it had been from time to time previously) put in commission, the lords commissioners being the Prime Minister or First Lord of the Treasury, the Chancellor of the Exchequer, and three junior lords (see next title). When there was a Lord High Treasurer, that great officer was generally Prime Minister; but when the white staff (the emblem of the office) was in commission, the chief commissioner hardly ranked so high before the time of the Georges as a Secretary of State. It was not until the time of Walpole that the First Lord of the Treasury

became, under a humbler name, all that the Lord High Treasurer had been.

Treasury, The, is one of the most important departments of the executive government of Great Britain. It has under its control every branch of the revenue and expenditure of the country. The Lord High Treasurer was formerly the sole head of the Treasury. On the union with Scotland in 1707 he became Lord High Treasurer of Great Britain; and in 1816, after the union with Ireland had taken place, Lord High Treasurer of the United Kingdom. The office was first put in commission in 1612; and since the reign of George I. it has always been executed by the lords commissioners of the Treasury, who are the First Lord of the Treasury, the Chancellor of the Exchequer, and three junior lords. They are appointed during pleasure by letters patent under the great seal. The offices which are more or less immediately subordinate to the Treasury are—the commissariat; the Treasury solicitor's office; the paymaster-general's; the exchequer; the national debt office; the public works and loan office; the royal mint; Her Majesty's works and public buildings; Her Majesty's commissioners of woods, forests, and land revenues; the general post-office; the customs; the inland revenue office; the audit office and the stationery office. The Treasury-board sits twice a week, on Tuesdays and Fridays. It is never attended by the Prime Minister, and very rarely by the Chancellor of the Exchequer.

Treasury-Bench. The front seat on the right hand of the Speaker of the House of Commons, upon which the members of the Ministry who have seats in that House sit.

Treaties, Leagues, and Alliances. It is the prerogative of the Crown to make treaties, leagues, and alliances with foreign states. Whatever contracts, therefore, of this kind the sovereign enters into are by international law valid and binding upon us. It has, however, for a very long period been the practice for the government, as soon as possible after the making of any treaty, to lay it before parliament; and the ministers who have advised it can then be made responsible for their advice.

Treating at parliamentary elections is thus defined by sec. 4 of the Corrupt Practices Prevention Act, 1854 (17 & 18 Vic. c. 102):—"Every candidate at an election, who shall corruptly by himself, or by or with any person, or by any other ways or means on his behalf, at any time either before, during, or after

any election, directly or indirectly, give or provide, or cause to be given or provided, or shall be accessory to the giving or providing, or shall pay, wholly or in part, any expenses incurred for, any meat, drink, entertainment, or provision to or for any person in order to be elected, or for being elected, or for the purpose of corruptly influencing such person or any other person to give or refrain from giving his vote at such election, or on account of such person having voted or refrained from voting, or being about to vote or refrain from voting, at such election, shall be deemed guilty of the offence of treating, and shall forfeit the sum of fifty pounds to any person who shall sue for the same, with full costs of suit; and every voter who shall corruptly accept or take any such meat, drink, entertainment, or provision, shall be incapable of voting at such election, and his vote, if given, shall be utterly void and of none effect. On proof of treating by a candidate or his agents, the election will be avoided. (See "Corrupt Practices.")

Trespass. Any person who trespasses by entering a house, outbuildings, courts, gardens, or immediate surroundings of a private character, is liable to punishment as a rogue and vagabond, unless he can excuse his intrusion by any special circumstances; but trespass upon fields and other land that is not of a private character is not in itself a criminal offence, and cannot be punished unless material injury or theft—however trifling, as of a daisy or a sprig of may—accompanies it. The occupier of the land, or any one to whom his authority is deputed, is entitled to order the trespasser off; and, unless he leaves with reasonable alacrity, physical compulsion is legal, but nothing in the nature of flogging or other punishment. Resistance by a trespasser to physical compulsion is an assault, and punishable as such. On the other hand, every trespass is actionable, the amount of damages being a question for the jury.

Trial at Bar formerly meant before all the judges at Westminster. Under the Judicature Act Orders, it is superseded by trial before two or more judges, by a special order of the High Court.

Triennial Parliaments. A statute had been passed in the reign of Edward III. enacting that parliaments should be held once every year, or oftener if need be; but as no provision had been made in case of failure, the Act had been dispensed with at pleasure. At the assembling of the Long Parliament in 1640, after an intermission of parliament for eleven years, one of their first Acts was to provide that parliament should be assembled

once in three years at least; and to insure this enactment being carried out, it was further enacted that if the Chancellor failed to issue writs by Sept. 8 in every third year, any twelve or more of the peers should be empowered to exert this authority; in default of the peers, that the sheriffs, mayors, bailiffs, &c., should surmount the voters; and, in their default, that the voters themselves should assemble and proceed to the election of members, in the same manner as if writs had been regularly issued from the Crown. This Act was, however, repealed at the Restoration. It was, however, shortly after provided by 16 Car. II. c. 1, that the sitting and holding of parliaments should not be intermitted above three years at the most. By the Bill of Rights it is declared that parliaments shall be holden frequently; which indefinite "frequently" was reduced to a certainty by the 6 Will. and Mary c. 2, which enacts that a new parliament shall be called within three years after the determination of the former. This period of three was extended to seven years by statute 1 Geo. I., st. 1, c. 38 (the Septennial Act). The real security, however, nowadays for the frequent holding of parliament is to be found in the necessity of obtaining supplies, and a renewal of the annual Mutiny Act in order to carry on the government.

Trinity House. A society at Deptford Stroud, incorporated by Henry VIII. in 1515, for the promotion of commerce and navigation, by licensing and regulating pilots, and ordering and erecting beacons, lighthouses, buoys, &c. (See "Pilotage.")

Trinity Term. A law term, beginning on May 22 and ending on June 12. (See "Terms.")

Trinoda Necessitas. In Saxon times all lands in the kingdom were liable to a threefold burden (called *trinoda necessitas*) of repairing bridges, maintaining forts, and defending the country against invasion.

Trout Fisheries. See "Salmon Fisheries."

Trover was formerly the designation given to an action based upon the finding in the possession of the defendant goods converted to his use, but wrongfully obtained or detained from the plaintiff. Proceedings in this form got to be regarded as fictitious, and merely as the means for recovering the value, and the recovery of the value of the goods is now what is called an action in trover.

Truck System. By this term is understood a system which prevails in certain trades in certain parts of the country to pay workmen's wages in good, or otherwise than in the current coin

of the realm. It was prohibited by 1 & 2 Will. IV. c. 37; but, it having transpired that the system continued to flourish in certain places despite the provisions of the Act, an Act was passed in 1870 appointing a commissioner to inquire into the matter.

Trust is defined as "an obligation upon a person, arising out of a confidence reposed in him, to apply property faithfully and according to such confidence."

Cestui que Trust. This is the designation of any person or persons having a beneficial interest in a trust, and in whose interest the trustees are bound to act.

Trustees are persons to whom a formal trust is committed. Trustees may be created either by deed or will, and every will that makes a settlement or suspends the appropriation of property constitutes the executor a trustee, with continuing powers as such until the trust be fulfilled. Every person who joins in the execution of a trust deed which constitutes him the trustee thereof is under an obligation to fill the office. Where a person is appointed a trustee without his own formal concurrence he may renounce or disclaim the office by going through prescribed legal formalities; but if he fails to conform to such formalities, all the responsibilities of trusteeship devolve upon him, and his passive attitude will not exonerate him from responsibility to the *cestui que trust* should loss be incurred through the negligence of the trustee. The main point a trustee has to note is that the office is strictly honorary, without a penny of remuneration unless it be expressly reserved to him by the instrument of appointment. He may charge the estate with strictly necessary assistance, cost of journeys, &c., being actual cash out of pocket, but not a sixpence more, and he must not turn the trust or its fund to his own advantage directly or indirectly. If he puts trust money in the bank it must be to a separate account. If he puts it to the credit of his own account, he may be liable in some cases for interest, though he never draws upon the amount. It suffices that it may strengthen his credit with the bank. Meanwhile the risks and responsibilities of trusteeship are very great, and where much complication arises there may be much embarrassment and possibly ruinous consequences.

Public Trusts. These are very various and complicated. Information upon these and upon trusteeship in general is contained at length in "Everybody's Lawyer," published by Ward, Lock and Co.

Trustee Acts, 1850 and 1852. These Acts are for the purpose of empowering and regulating the appointment of new trustees by the Court of Chancery in every case where from any cause a trustee has died or has become disqualified, and where there is no effectually reserved power of appointment in his stead.

Trustee Relief Acts. These Acts were passed in 1847 (10 & 11 Vic. c. 96) and 1849 (12 & 13 Vic. c. 74) to authorize any trustee to pay money into court, subject to the subsequent disposal by the court, in every case where the trustee is unable to decide how the money should be appropriated. Unless his doubt of how to dispose of the money is justified he must take the responsibility himself—in that case the court will refuse to intervene.

Turbary is the right of a commoner to dig turf upon the common.

Turnpikes are dealt with in general under Highways and Public Health, but recent special Acts have been passed in 1877 (40 & 41 Vic. c. 64) to continue certain Turnpike Acts in Great Britain, and to repeal certain other Turnpike Acts, and for other purposes connected therewith, called the Turnpike Acts Continuance Act; the Act of 1882 (45 & 46 Vic. c. 52) is an extension of the Act of 1877; another in 1882 (45 & 46 Vic. c. 67) has reference to Turnpike Roads in South Wales. In 1883 an Act was passed (46 & 47 Vic. c. 21) further continuing or abolishing numerous Turnpike Acts.

Tything. As part of the judicial system among the Anglo-Saxons now totally abolished.

Ullage. When a cask is partly filled the unfilled part is called the ullage. It is an important expression in connection with distilleries with reference to excise regulations.

Ultra Vires is anything done, or proposed to be done, beyond legal authority to do it.

Umpire, in law, is the person appointed to decide upon points about which two arbitrators disagree.

Under-Sheriff. By 3 & 4 Will. IV. c. 99 it is provided that every sheriff shall, within one calendar month next after the notification of his appointment in the *Gazette*, by writing under his hand, nominate some fit person to be his under-sheriff, and transmit a duplicate thereof to the clerk of the peace, to be by him filed among the records of his office; and that every under-sheriff (except those of London and Middlesex) shall, before he enters on the execution of his office, take the oath of office. The under-sheriff usually performs all the duties of the office of sheriff, those of deputy-sheriff only excepted, and

a few others where the personal presence of the high sheriff is necessary. But the under-sheriff is only to a certain extent recognized by law, and the sheriff himself is held civilly responsible for all acts done or omitted by his under-sheriff. The latter is even considered, where the duty is improperly performed, as exempt from any action for negligence at the suit of the party grieved. It is also enacted that no under-sheriff shall continue in office above a year. It is further provided with respect to this officer that, if the sheriff dies, the under-sheriff shall continue in office until a new high sheriff is appointed.

Underwriter is a person who signs a marine policy to the amount appended to his name, in consideration of a premium paid to him for the risk he runs.

Undue Influence at parliamentary elections is defined by section 5 of "The Corrupt Practices Prevention Act, 1854" (17 & 18 Vic. c. 102), as follows:—

Every person who shall, directly or indirectly, by himself, or by any other person on his behalf, make use of, or threaten to make use of, any force, violence, or restraint, or inflict or threaten the infliction by himself, or by or through any other person, of any injury, damage, harm, or loss, or in any other manner practise intimidation upon or against any person in order to induce or compel such person to vote or refrain from voting, or on account of such person having voted or refrained from voting at any election, or who shall by abduction, duress, or any fraudulent device or contrivance, impede, prevent, or otherwise interfere with the free exercise of the franchise of any voter, or shall thereby compel, induce, or prevail upon any voter, either to give or to refrain from giving his vote at any election, shall be deemed to have committed the offence of undue influence, and shall be guilty of a misdemeanour; and in Scotland of an offence punishable by fine or imprisonment, and shall also be liable to forfeit the sum of £50 to any person who shall sue for the same, together with full costs of suit. (See "Corrupt Practices.")

Uniformity, Act of. An Act 1 Eliz. c. 2, which re-enacted all the laws of Edward VI. concerning religion, and prohibited any minister, whether benefited or not, to use any but the Book of Common Prayer. The Act also imposed a fine of one shilling on all who should absent themselves from church on Sundays and holy days. This Act was further amended by an Act of Charles II., which provided that the Book of Common Prayer should be used in every church, chapel, or other place of public

worship, and that all parsons, vicars, and ministers were to read and declare their assent to use the same ; that every clergyman should be re-ordained if he had not already been ordained priest or deacon according to episcopal ordination ; and that, in future, no person should be capable of being admitted to any parsonage, vicarage, benefice, or other ecclesiastical promotion or dignity, or of consecrating or administering the sacrament, until he had declared his assent to everything declared in the Book of Common Prayer ; had taken the oath of canonical obedience ; had been ordained priest by the bishop in the manner prescribed in the Book of Common Prayer ; and had abjured the Solemn League and Covenant, and renounced the principle of taking arms against the king. The Act imposed a £100 penalty on any one, not being a legally ordained priest, who should administer the sacrament ; but this was repealed by the Toleration Act of William and Mary.

The permanent clauses of the Act of Uniformity which still remain unrepealed are : (1) the declaration of assent and consent to the Book of Common Prayer, and (2) the provision requiring episcopal ordination.

Union. See " Poor Laws."

Union Assessment Committee Acts, 1862 and 1864 (25 & 26 Vic. c. 103, and 27 & 28 Vic. c. 39). Two Acts providing for the appointment of a committee in each union to assess the rateable property in the union upon a new basis laid down by the Acts, with a view to ensure a greater equality of assessment within unions.

Union Chargeability Act, 1865 (28 & 29 Vic. c. 79). An Act by which so much of the Poor Law Amendment Act of William IV. (4 & 5 Will. IV. c. 76) as required that each of the parishes in a union, formed under the authority of that Act, should be separately chargeable with and liable to defray the expense of its own poor, whether relieved in or out of the workhouse of such union, was repealed ; and it was provided that all the cost of the relief of the poor, and the expenses of the burial of the dead body of any poor person under the direction of the guardians, or any of their officers duly authorized, in such union thenceforth incurred, and all charges thenceforth incurred by the guardians of such union in respect of vaccination and registration fees, should be charged upon the common fund.

Union of Benefices Acts. These Acts were passed in 1855 (18 & 19 Vic. c. 127) and 1860 (23 & 24 Vic. c. 142). The former is expressed to be to make better provision for the union

of contiguous benefices, and to facilitate the building and endowing of new churches in spiritually destitute districts. The latter is to make better provision for the union of contiguous benefices in cities, towns, and boroughs. The churches of St. Stephen, Walbrook; St. Martin, Ludgate; St. Peter, Cornhill; and St. Swithin, Cannon Street, are expressly barred from demolition.

University Tests Act, 1871. Prior to the passing of this Act (84 Vic. c. 26) it was competent to any person, irrespectively of his religious opinions, to become a member of the University of Oxford or Cambridge, and to proceed to the degree of B.A., without being subject to any religious test whatever. In order, however, to obtain the degree of M.A. (which is the qualification necessary to constitute a man one of the governing body of the university), or to be admitted to any fellowship, scholarship, or exhibition at either university, it was necessary to sign the Thirty-nine Articles. This test of faith was abolished by the above Act; section 3 of which enacts that, from and after the passing of this Act, no person shall be required upon taking, or to enable him to take, any degree (other than a degree in Divinity) within the Universities of Oxford, Cambridge, or Durham, or any of them; or upon exercising, or to enable him to exercise any of the rights or privileges which may heretofore have been or hereafter may be exercised by graduates in the said universities, or any of them, or in any college subsisting at the time of the passing of this Act in any of the said universities; or upon taking or holding, or to enable him to take or hold any office in any of the said universities, or any such college as aforesaid; or upon opening, or to enable him to open a private hall or hostel, in any of the said universities for the reception of students, or upon teaching, or to enable him to teach within any of the said universities, or in any such college as aforesaid—to subscribe any article or formulary of faith, or to make any declaration or take any oath respecting his religious belief or profession, or to conform to any religious observance, or to attend, or abstain from attending any form of public worship, or to belong to any specified church, sect, or denomination; nor shall any person be compelled in any of the said universities, or any such college as aforesaid, to attend the public worship of any church, sect, or denomination to which he does not belong: provided that—

1. Nothing in this section shall render a layman or a person not a member of the Church of England eligible to any office, or capable of exercising any right or privilege in any of the said universities or colleges, which office, right, or privilege, under

the authority of any Act of Parliament, or any statute or ordinance of such university or college, in force at the time of the passing of this Act, is restricted to persons in holy orders, or shall remove any obligation to enter into holy orders, which is by such authority attached to any such office. 2. Nothing in this section shall open any office (not being an office mentioned in this section) to any person not a member of the Church of England, where such office is at the time of the passing of this Act confined to members of the said Church, by reason of any such degree as aforesaid being a qualification for holding that office. The Act is not to interfere with the lawfully established system of religious instruction, worship, and discipline; but no person shall be required to attend any college or university lecture to which he, if he be of full age, or, if he be not of full age, his parent or guardian, shall object on religious grounds. Morning and Evening Prayer according to the Order of the Book of Common Prayer is to continue to be used in college chapels as heretofore; but power is given to the Visitor, on the request of the governing body of the college, to authorize the use of an abridgment or adaptation of the said Morning and Evening Prayer in the chapel of such college on week days only.

Universities of Oxford and Cambridge, Courts of. To these two universities royal grants have been made (confirmed by Act of Parliament) committing to them respectively a jurisdiction, *inter alia*, in personal actions in general, to which any member or servant of the university is a party; in every case, at least, where the cause of action arose within the liberties of the university, and such member or servant was resident in the university when it arose and when the action was brought. The most ancient charter containing this grant to the University of Oxford was 28 Hen. III. A.D. 1244. The same privileges were confirmed and enlarged by almost every succeeding prince down to Henry VIII., in the fourteenth year of whose reign the largest and most extensive charter of all was granted. One similar to this was granted to Cambridge in the third year of Elizabeth. Later in the same reign, an Act of Parliament was obtained confirming all the charters of the two universities, and those of 14 Hen. VIII. and 3. Eliz. by name. The proceedings in these courts used to—and in the case of Cambridge still must—conform to the civil law. As to the court at Oxford, it is now provided by 25 & 26 Vic. c. 26, sec. 12, that rules for its practice and forms of procedure may be made from time to time by the Vice-chancellor, with the approval of three of the judges of Her

Majesty's superior courts; and by 17 & 18 Vic. c. 81, sec. 45, that the court shall, in all matters of law, be governed by the common and statute law of the realm, and not by the rules of the civil law.

Unlimited Company is any company the liability of which is not expressly limited.

Unliquidated Damages are damages to an unknown or undetermined amount.

Urban Sanitary Authority. This expression is defined in the Public Health Act, 1875, in the following tabular form :

URBAN DISTRICT.	URBAN AUTHORITY.
Borough, constituted such either before or after the passing of this Act.	The Mayor, Aldermen, and Burgesses acting by the Council.
Improvement Act District, constituted such before the passing of this Act, and having no part of its area situated within a borough or local government district.	The Improvement Commissioners.
Local Government District, constituted such either before or after the passing of this Act, having no part of its area situated within a borough, and not coincident in area with a borough or Improvement Act District.	The Local Board.

Usance is the common course with reference to foreign bills.

Uses, Statute of. This Act of 1536 (27 Hen. VIII, c. 10) is very important as the basis of the present law with reference to conveyances, jointures, wills, &c. Mastery of this Act is essential to all law students.

Usher of a court is the doorkeeper.

Usufruct is the right to enjoyment of advantages without the right to dominion. Its most familiar illustration is the right of a commoner to pasturage.

Usury is lending money for the sake of gain instead of in the way of kindness. It was regarded as immoral in England so far that it was formerly illegal to contract for or recover interest at the rate of more than five per cent. per annum, and the restrictions under that head were known as the Usury Laws. They were evaded because there was nothing to prevent a bill being drawn for any amount, including any proportion of interest in respect of a loan or anything else. All restrictions of the kind were totally abolished in 1854 (17 & 18 Vic. c. 90). Notwithstanding that Act, every person is entitled, by a suit in

equity, to relief from obligations of an exceedingly extravagant character incurred in consideration of a loan.

Uttering is the passing or fraudulent use of forgeries, whether in the shape of coin or document.

Vacation. The intervals between the law Terms; Christmas vacation between Michaelmas and Hilary; Easter vacation between Hilary and Easter; Whitsun vacation between Easter and Trinity; the long vacation, which ends the legal year, after Trinity Term. By the long vacation, however, is understood the recess from the 10th of August to the 24th of October at Common Law, and to the 28th of October in Chancery. (See "Terms.")

Vaccination. By 3 & 4 Vic. c. 29 (amended by 4 & 5 Vic. c. 32) the guardians of every parish or union, or the overseers of every parish where there are no guardians, are to contract (subject to the regulation of the Poor Law Board) with the medical officers of the union or parish, or with other persons, for the vaccination of the inhabitants. By 16 & 17 Vic. c. 100, it was made imperative on the parent (or other person having the care, custody, or nurture) of every child which shall be born in England or Wales, to procure its vaccination within three months of its birth, by the medical practitioner appointed for the purpose in the union or parish where the child is resident; except only in the case where the child has been previously vaccinated by some duly qualified medical practitioner and where such vaccination shall be duly certified. And every person neglecting this duty, after receiving notice to perform it from the registrar of births and deaths of the sub-district to which the case belongs, shall forfeit a sum not exceeding twenty shillings, which shall be recoverable before two justices of the peace for the county or borough where the offence is committed. And by 24 & 25 Vic. c. 59 the guardians and overseers are authorized to appoint some person to institute and conduct proceedings for the purpose of enforcing obedience to the above provisions; and the justices or court before whom such proceedings are had are empowered to certify for and ascertain the amount of the expenses thereof, which shall thereupon be payable out of the poor-rate of the parish where the offender dwells. These various enactments were, however, repealed in 1867 by 30 & 31 Vic. c. 84, by which it is provided, amongst other things, that the parent of every child born in England shall, within three months after the birth of such child, or where by reason of the death, illness, absence, or inability of the parent or

other cause, any other person who shall have the custody of such child, such person shall, within three months after receiving the custody of such child, take it, or cause it to be taken to the public vaccinator of the vaccination district in which it shall then be resident, to be vaccinated, or shall within such period as aforesaid cause it to be vaccinated by some medical practitioner.

Vagrant. This word legally applies in a great variety of circumstances, under the three primary headings of Idle and Disorderly Persons; Rogues and Vagabonds; Incurable Rogues. Leading details of what constitutes a vagrant are as follow:—

Neglecting to maintain family.

Returning after removal by order under the Poor Laws.

Hawking without a licence.

Prostitutes behaving indecently.

Begging alms or causing a child to do so.

Applying for poor law relief and not making known the possession of money or other property.

Second conviction as an idle and disorderly person.

Fortune-tellers.

Lodging in out-houses, &c.

Indecent exhibitions.

Exposing person or wounds.

Collecting alms under fraudulent pretences.

Running away leaving family chargeable. This includes a married mother if she has the means to support her children (not otherwise).

Gaming in any public place.

Having picklocks, &c., with intent.

Being unlawfully armed with any destructive weapon.

Being on premises for an unlawful purpose. (See "Trespass.")

Reputed thieves frequenting public places with intent.

Resisting apprehension.

Vagrant breaking out of confinement.

The punishment of vagrancy in its various degrees extends in extreme cases to imprisonment with or without hard labour or whipping.

Valuable Consideration is a legal fiction. Anything tangible will serve as evidence of the *bonâ fide* intention of the parties with reference to any matter. A shilling will generally cover anything, no matter what it may be worth, for which the shilling is given and accepted as an equivalent.

Valuable Security. This is defined by the Larceny Act of 1861 (24 & 25 Vic. c. 96) as any order, exchequer acquittance, or other security whatsoever evidencing the title of any party to share in any public stock; or debenture, deed, bond, or other security for the payment of any money.

Value Received, unlike "Valuable Consideration," does not entitle the drawer of a bill to sue the acceptor unless he received value; but any subsequent holder for value is entitled to sue thereon whether the acceptor got value or not. In this connection, value does not imply the full amount stated, but reasonable consideration.

Vassal. Under the feudal system, the correlative to "lord." The grantor of lands was called the proprietor or lord, being he who retained the dominion or ultimate property of the feud or fee; and the grantee, who had only the use or possession according to the terms of the grant, was styled the feudatory or vassal, which was only another name for the tenant or holder of the lands.

Vendee and Vendor. The buyer and seller.

Vendor and Purchaser Act, 1874 (37 & 38 Vic. c. 78). This Act was passed to facilitate and simplify the transfer of land. Under it a forty years' root of title is rendered sufficient unless the circumstances be exceptional. Lessees are not entitled to have proof of title to the landlord's freehold. Disputes between vendor and purchaser may be settled by a judge in chambers.

Vendor's Lien. The vendor of landed property has a perpetual lien or equitable mortgage against all parties in respect of the whole or any part of the purchase money remaining unpaid, and he is entitled to all the rights and powers of a mortgagee in respect thereof.

Venue. The place from which a jury is to come for the trial of a cause. The word thus comes to signify the county where a cause is to be tried. The venue is either local or transitory; it is transitory when the cause is of such a nature that it may be tried in any county, and local when it must be tried in some particular county. In all ordinary civil actions the venue is transitory, except in cases relating to land, which are local. In all criminal cases the venue is local; that is to say, such cases must always be tried in the county where they are alleged to have been committed.

Verderer. An officer in the royal forest, whose office is properly to look to the vert (*i.e.*, everything that bears a green

leaf within a forest that may cover a deer ; but especially great and thick coverts), and see it is well maintained ; and he is sworn to keep the assizes of the forest, and view, receive, and enrol the attachments and presentments of trespasses of vert and venism.

Verdict of the Jury. In civil cases neither party is bound to take any but a unanimous verdict, but, by agreement between the parties, the verdict of the majority may be taken. In criminal cases none but a unanimous verdict can be taken ; and in cases which affect life or murder the jury must give their verdict publicly. They may give their verdict generally, as guilty or not guilty ; or specially, in the latter case stating what they find to be facts, and leaving it to the judge to decide, as matter of law, whether on the facts found the prisoner is guilty or not guilty. Juries are free to give what verdict they like, and are not punishable for giving a verdict contrary to the direction of the judge. This was finally decided in *Bushell's case*, in the reign of Charles II. If the jury cannot agree upon their verdict they are discharged, and the trial that has been had goes for nothing, so that the prisoner can be tried over again. By section 23 of the Juries Act, 1870 (33 & 34 Vic. c. 77), the old restriction against jurors being kept without fire or refreshment while deliberating as to their verdict was abolished.

Versus (*v.*) literally means against.

Vert is everything growing in a forest.

Vested Interests are rights or emoluments in possession or enjoyment.

Vestry. A vestry, properly speaking, is the assembly of the whole parish met together in some convenient place for the despatch of the affairs and business of the parish ; it is so called from having formerly been held in the vestry adjoining the church, but it may be held in any convenient place. Public notice has to be given of any vestry meeting three days before the day on which it is to be held. Vestries for Church matters are to be called regularly by the churchwardens, with the consent of the minister. At common law, every parishioner who paid to the church-rates, or scot and lot, and no other person had a right to attend the vestry. Residence within the parish is not essential ; nor is the payment of church-rates, if a man has paid his poor-rates ; but no person who has neglected to pay his poor-rates is eligible until he has paid the same. The Act abolishing compulsory church-rates (81 & 82 Vic. c. 109), sec. 6, provides that the Act shall not affect vestries, or the making, assessing,

receiving, or otherwise dealing with any church-rate, save in so far as relates to the recovery thereof; and section 8 provides that no person who makes default in paying the amount of a church-rate for which he is rated shall be entitled to inquire into or object to, or vote in respect of, the expenditure of the moneys arising from such church-rate; and if the occupier of any premises shall make default for one month after demand in payment of any church-rate for which he is rated, the owner shall be entitled to pay the same, and shall thereupon be entitled, until the next succeeding church-rate is made, to stand for all purposes relating to church-rates (including the attending at vestries and voting thereat) in the place in which such occupier would have stood. The minister of the parish is by right the chairman of the vestry. The vestry has (subject to provisions of the Church Rates Abolition Act above cited) the right to investigate and restrain the expenditure of the parish funds, to determine the expediency of altering or enlarging the churches or chapels, or of adding to or disposing of the goods and ornaments connected with them. The election of some of the parish officers is either wholly or in part to be made by the vestry, and it has either directly or indirectly a superintending authority in all the weightier matters of the parish. There are several other matters in which particular duties are cast by statute upon the vestry, such as the appointment of surveyors of highways, the diverting and stopping up of highways, the adoption of ways as parish roads (see "Highways"), the election of churchwardens, the making of church-rates, and the like. The vestry also has the election of the vestry clerk, who is an officer chosen by the vestry to act as registrar and secretary thereto, but who has no right to vote upon or take part in the questions submitted to the vestry. The business of this officer is to attend at all parish meetings, and to draw up and copy all orders and other acts of the vestry, and to give out copies thereof when necessary. He has also the custody of all books and papers relating to the same. The vestry clerk is only appointed at a vestry meeting convened for that special purpose in parishes which have more than two thousand inhabitants, and in which the Poor Law Board has made an order for his appointment. His duties, besides those above mentioned, are to give notice of and attend the meetings of the vestry; to summon and attend meetings of the churchwardens and overseers when required, and enter the minutes thereof; to keep the account of the charity moneys expended by the churchwardens and overseers; to keep

the vestry books, parish deeds, &c., rate books, and accounts which are closed, and to give extracts from or copies of the same at a stated charge; to make out the church-rates, and, where there is no collector of poor-rates or assistant overseer, to make out the poor-rate and procure its allowance; to prepare and issue the necessary process for recovering arrears of such rates, &c.; to keep the churchwardens' accounts; to assist the overseers in making out their accounts of the poor-rate, &c. Select vestries are appointed in some parishes, in some cases by custom, in other cases by statute. They are also appointed by the ratepayers (in such parishes as choose to adopt the Act) under 1 & 2 Will. IV. c. 60, commonly called "Hobhouse's Act," which applies only to parishes being within a part of a city or town, which shall contain more than eight hundred rated householders who have paid their rates during the preceding year. This Act has been repealed, so far as the metropolis is concerned, by the Metropolitan Local Management Act. Under this Act the vestry in every London parish mentioned in the schedule of the Act is to consist of eighteen vestrymen where the number of rated householders does not exceed one thousand; twenty-four vestrymen where the number exceeds one thousand, and thirty-six where the number exceeds two thousand. (See, further, "Works, Metropolitan Board of.") A select vestry supersedes the existing vestry, and exercises the powers and privileges of such vestry, save as otherwise provided by the Act.

Veterinary Surgeons. The Veterinary Surgeons Act, 1881 (44 & 45 Vic. c. 62), constitutes the Royal College of Veterinary Surgeons the authority under this head, and provides for registry there of qualified practitioners, and for the periodical printing and publication of the current register. Penalties amounting to £50, or twelve months' imprisonment with or without hard labour, are imposed for procuring false registration or for practising under the pretence of being registered.

Vexatious Indictments Act. This Act was passed in 1859 (22 & 23 Vic. c. 17) for the prevention of vexatious indictments for misdemeanours. Under that Act there can be no bill of indictment for perjury, subornation of perjury, conspiracy, obtaining money or property under false pretences, keeping a gambling-house or disorderly house, or indecent assault, unless the prosecutor has been bound to prosecute, or unless the accused has been committed to prison or bound to appear, or unless the prosecution be ordered by some public authority in that behalf.

Vicar. At the first establishment of parochial clergy, the tithes of the parish were distributed in a fourfold division—one for the use of the bishop, one for maintaining the fabric of the church, a third for the poor, and the fourth for the use of the incumbent. When the sees of the bishops became otherwise amply endowed, they were prohibited from demanding their usual share of these tithes, and the division was into three parts only. Hence it was inferred by the monasteries that a small part only was sufficient for the officiating priest, and that the remainder might well be applied to the use of their own fraternities, subject to the burden of maintaining the church and providing for its constant supply. They therefore acquired all the advowsons within their reach, and then appropriated the benefices to the use of their own corporation. But, in order to complete such appropriation effectually, the king's licence and the bishop's consent had first to be obtained; because both the king and the bishop might, at some time or other, by lapse, have an interest in the presentation to the benefice, which could never happen if it was appropriated to a corporation, which never dies; and also because the law reposes a confidence in them, that they will not consent to anything that shall be to the prejudice of the church. The consent of the patron also is necessarily implied; because the appropriation could not be made unless a spiritual corporation was also the patron of the benefice—the whole being indeed nothing else but an allowance for the patrons to retain the tithes and glebe in their own hands, without presenting any clerk, they themselves undertaking to provide for the service of the church. When the appropriation was thus made, the appropriators and their successors were perpetual parsons of the church; and the lay appropriators at the present day have to sue and be sued, in all matters concerning the rights of the church, by the name of parsons. Appropriators were thus in their origin always persons spiritual, being bishops, prebendaries, monasteries and other religious houses, nay, even nunneries and certain military orders, all of which were spiritual corporations. But the case is now different; for by 27 Hen. VIII. c. 28 and 31 Hen. VIII. c. 13 the monasteries and religious houses were dissolved, and the appropriations which belonged to them respectively, amounting to more than one-third of all the parishes in England, were given to the king in as ample a manner as the monasteries, &c., held the same at the time of their dissolution. Many of the appropriations thus vested in the Crown by the effect of these several

dissolutions, being afterwards from time to time granted out by the Crown to subjects, are now in the hands of lay persons, who are usually styled, by way of distinction, *lay appropriators*, though the term of *appropriators* is in strictness as applicable to these as to the original holders. In all appropriations there is generally a spiritual person attached to the same church, under the name of "Vicar," to whom the spiritual duty or *cure of souls* (as it is called) belongs, in the same manner as in parsonages not appropriated (or rectories) to the rector; and to whom, on the other hand, a certain portion of the tithes or other emoluments of the church, by way of exception out of those enjoyed by the appropriator, is assigned. The origin, then, of these vicars is as follows:—The appropriating corporations or religious houses were wont to depute one of their own body to perform divine service and administer the sacraments in those parishes of which the society was thus the parson. This officiating minister was in reality no more than the curate, deputy, or vicergerent of the appropriator, and therefore called "Vicar" (*vicarius*, a substitute). His stipend was at the discretion of the appropriator; who was, however, bound of common right to find somebody to answer to the appropriators concerning the temporalities, and to the bishop concerning the spiritualities. But this was done in so scandalous a manner, and the parishes suffered so much through the neglect of the appropriators, that the legislature was forced to interfere; and accordingly it was enacted by 15 Rich. II. c. 6, that in all appropriations of churches the diocesan bishop should ordain (in proportion to the value of the church) a competent sum to be distributed among the poor parishioners annually, and that the vicarage should be sufficiently endowed. But the vicar being liable to be removed at the pleasure of the appropriator was not likely to insist too rigidly on the legal sufficiency of the stipend; and therefore, by statute 4 Hen. IV. c. 12, it was ordained that the vicar should be a secular person (see title "Secular Clergy"), not a member of any religious house; that he should be vicar perpetual, not removable at the caprice of the monastery; and that he should be canonically instituted and inducted, and be sufficiently endowed at the discretion of the ordinary for these three express purposes—to do divine service, to inform the people, and to keep hospitality. The endowments in consequence of these statutes have usually been a portion of the glebe or lands belonging to the parsonage, and a particular share of the tithes, which the appropriators found it most difficult to collect,

the greater part being still reserved to their own use. Hence arose the distinction between the greater and the lesser tithes, the former being retained by the appropriators, the latter being allotted to the vicars. But one and the same rule was not observed in the endowment of vicarages. Hence some are more liberally, while others are more scantily, endowed; and hence the tithes of many things, as wood in particular, are in some cases rectorial and in others vicarial. Hence, at the present day, in every vicarage the appropriator is either ecclesiastical or lay, or corporation aggregate or sole, as the case may be, but he has never (as appropriator) the cure of souls in the parish; while the vicar, on the other hand, is always an individual and spiritual person, and is charged with the cure of souls in the parish. (See "Tithes.")

Vicar-General. An ecclesiastical officer, who assists the archbishop in the discharge of his office.

Vice-Admiralty Courts. Certain tribunals established in Her Majesty's possessions beyond the seas, with jurisdiction over maritime causes, including those relating to prize. (See "Admiralty.")

Vice-Chamberlain. A great officer, next under the Lord Chamberlain, who, in the absence of the Lord Chamberlain, has the rule and control of all officers appertaining to that part of the royal household which is called the "chamber above stairs."

Vice-Chancellors. In the course of the present century the business of the Court of Chancery had so much increased that it was found necessary to add to its judicial power. Accordingly, in 1813, an additional judge in Chancery, or vice-chancellor, was created, with power to hear and determine all matters depending in the Court of Chancery. In 1832 the Court of Chancery was relieved of the jurisdiction in bankruptcy; and in 1841, when the equity jurisdiction of the Court of Exchequer was transferred to the Court of Chancery, an additional vice-chancellor was appointed, and subsequently a third vice-chancellor was created. All suits are now commenced in the court either of one or other of the Vice-Chancellors or of the Master of the Rolls, and the Lord Chancellor sits only as a judge of appeal from their decisions.

Videlicet (viz.), namely.

Viscount. A title of nobility. The word (*vice-comes*) originally meant the deputy of an earl, and had a real significance in times when the earl had the civil government of a county. The

name "Viscount" was afterwards made use of as an arbitrary title of honour, without any shadow of office pertaining to it, by Henry VI.; who, in the eighteenth year of his reign, created John Beaumont a peer, by the title of Viscount Beaumont.

Viva Voce. Orally, by word of mouth.

Vivisection. This subject is dealt with by an Act of 1876 (39 & 40 Vic. c. 77) to amend the law relating to cruelty to animals. The Act includes prohibition of painful experiments on animals other than as prescribed; general restrictions as to performance of painful experiments on animals; use of Urari as an anæsthetic prohibited; special restrictions on painful experiments on dogs, cats, &c.; absolute prohibition of public exhibition of painful experiments. Vivisection is forbidden except in a place registered for the purpose, and except by a person expressly licensed. Licences are not obtainable except upon the requisition of a recognized medical corporation; but any judge may grant a special licence in criminal cases. The penalties for infringement are—for a first offence £50; for every subsequent offence £100, or imprisonment for three months. Any person who advertises or publishes a notice of an intended experiment in contravention of the Act is liable to a penalty of £1.

Void and Voidable are words that occur in connection with marriage. A void marriage is one that is essentially illegal—as where the parties are so related as to make their marriage impossible, or where both parties have concurred in some wilful infraction of the law, the children (if any) being illegitimate without remedy. A voidable marriage is one that may be set aside by special proceedings by either of the parties, or sometimes by third parties, otherwise the marriage becomes effectual. Such would occur if either party were deceived as to the identity of the other, or where one of the parties has committed some infraction of the law without the knowledge of the other, or where a parent intervenes to set aside the marriage of a minor. Proceedings to upset a voidable marriage must be prompt, as wilful delay in seeking a remedy is legal acquiescence, and acquiescence even for a moment bars all right to proceedings.

Voire dire. A witness may be examined by the judge on the *voire dire* (as it is called), if there is reason to believe that he does not understand the nature of an oath, to ascertain whether he is competent to give evidence or not.

Voluntary Conveyance is a conveyance without con-

sideration. It is generally good as between the parties, but not as it may affect third parties. The most familiar example of a voluntary conveyance is a fraudulent bill of sale, whereby the giver A. transfers his property to B. with the intention of defrauding the creditors of A. But, though A. cannot get his property back if B. thinks proper to stick to it, the creditors of A. can recover from B. unless he can prove the *bonâ fides* of the transaction.

Voluntary Settlement stands upon precisely the same footing as voluntary conveyance.

Volunteers. The various Acts relating to the Volunteer Forces were consolidated and amended by the Volunteer Act, 1863 (26 & 27 Vic. c 65). Part I. of this Act relates to the organization of the Volunteer Force. Section 2 makes it lawful for Her Majesty to accept the services of any persons desirous to be formed under this Act into a volunteer force, and offering their services to Her Majesty through the lieutenant of a county. Her Majesty has also power to constitute from time to time a permanent staff, consisting of an adjutant commissioned by Her Majesty and of as many serjeant instructors as may seem fit, for any volunteer corps. Every volunteer corps shall (except as to the officers of the permanent staff thereon) be officered by persons appointed with Her Majesty's approval, and commissioned by the lieutenant of the county to which the corps belongs. Any volunteer may quit the service on complying with certain conditions. Any volunteer taking service in the militia or the army shall be deemed discharged from the volunteer force. Whenever any volunteers are on actual military service, or are undergoing inspection, or are voluntarily doing any military duty, Her Majesty may put them or their officers under the command of such general or field officers of Her Majesty's army, senior in rank to every officer of the volunteer force so to be put under their command, as Her Majesty may appoint and designate. An annual inspection of every volunteer corps shall be held by a general or field officer of Her Majesty's army. Her Majesty has power from time to time, by order in council, to declare what is requisite (in point of attendance at drill and so forth) to entitle a volunteer to be deemed an efficient volunteer. She has also power to disband any volunteer corps. In Part II. of the Act, power is given to the Crown in case of invasion to call out volunteers for actual military service; under such circumstances the volunteers are to receive pay according to a scale laid down in the Act. In Part III. regulations are

made with regard to the discipline of volunteers while not on actual military service; when on actual military service the volunteers are to be subject to the Mutiny Act. In Part IV. (as to the rules and property of volunteer corps) the officers and volunteers belonging to a corps may from time to time make rules—subject to the approval of the Crown—for the management of the property, finances, and civil affairs of the corps. If any person, belonging to a volunteer corps or administrative regiment, neglect or refuse to pay any money subscribed or undertaken to be paid by him towards any of the funds or expenses of such corps, and actually payable by him, or to pay any fine incurred by him under the rules of the corps, such amount shall be recoverable from him, with costs, at any time within twelve months after the same is due and payable, as a penalty under this Act is recoverable—that is to say, summarily before justices. If any volunteer designedly makes away with, sells, pawns, wrongfully destroys, wrongfully damages, or negligently loses anything issued to him as a volunteer—or wrongfully refuses or neglects to deliver up, on demand, anything issued to him as a volunteer—the value thereof shall be recoverable from him in a summary manner before justices, and he is made liable to a penalty of £5. Any person wrongfully buying, &c., any arms of a volunteer is liable to a penalty not exceeding £20, and for a second offence to a penalty not exceeding £20 and not less than £5, with or without imprisonment for any term not exceeding six months, with or without hard labour. By Part V. power is given to acquire land for ranges. By Part VI. (which deals with exemptions) every officer of the volunteer force, and every efficient volunteer and every non-commissioned officer of the volunteer permanent staff, is exempted from liability to serve or to provide a substitute in the militia. Certain exemptions from payment of horse duty are given to officers required to use a horse on duty; and certain exemptions from toll are given to volunteers. The Act does not extend to Ireland.

Voting at Elections. See “Elections.”

Voting-papers. By an Act of 1861 (24 & 25 Vic. c. 58) electors at the University elections may, under certain conditions, vote at an election of a member to serve in parliament by means of a voting-paper, which is to be delivered by an elector to the returning officer on the day of the election accompanied by a declaration. This declaration has been altered by 31 & 32 Vic. c. 65, which substitutes the following form for that previously

provided :—" I solemnly declare, that I verily believe that this is the paper by which A. B. (the voter) intends to vote pursuant to the Universities Election Acts, 1861 and 1868."

Wager, in law, is what is popularly called a bet. By an Act of 1845 (8 & 9 Vic. c. 109, sec. 11) wagers are expressly not recoverable by legal proceedings, but this does not affect stakes. Thus, if two agree to play at billiards for £10, and the money is "staked" or placed in the hands of a stake-holder, such stake-holder is answerable to the winner, who can legally recover the amount accordingly. But if a looker-on bets with either of the players or with another looker-on, no legal obligation accrues, whether the money be staked or not. Each party is legally entitled to recover the money from the person to whom he gave it, in defiance of the event, whichever way it may go.

Wages, in law, cover salaries also payable to a servant of whatever rank. Clerks and servants, as creditors in bankruptcy, are entitled to preference in full to the extent of four months' wages or salary not exceeding £50 each, if such payments be so much in arrear. Workmen's and labourers' claims in such case are to the same effect; but, when a company is winding up, by an Act of 1883 (46 & 47 Vic. c. 28), though clerks and servants are entitled as in bankruptcy, labourers and workmen have only preference for two months of arrears.

Wages in Public-Houses. By an Act of 1883 (46 & 47 Vic. c. 31) wages to any labourer or workman (except miners) must not be paid in any public-house, beershop, or place for the sale of any spirits, wine, cider, or other spirituous or fermented liquor, or any office, garden, or place belonging thereto or occupied therewith, save and except such wages as are paid by the resident owner or occupier of such public-house, beershop, or place to any workman *bonâ fide* employed by him. The penalty for every infringement is £10.

Waifs, in law, are what a thief throws away during his flight.

Waive. To waive is to forego an advantage or right.

Wales. The Welsh continued under their own princes and laws up to the reign of Edward I. This monarch conquered the country, and the better to secure his conquest, and to reconcile the Welsh to a foreign yoke, he sent his queen to lie in at Caernarvon, where she was delivered of a prince, to whom the Welsh on that account the more readily submitted. Ever since that time the eldest sons of the Kings of England have commonly been created Princes of Wales, and as such enjoy certain revenues from that country. After the conquest of Wales by Edward I.

very material alterations were made in their laws, so as to reduce them nearer to the English standard, especially in the forms of their judicial proceedings; but they still retained very much of their original polity, particularly their rule of inheritance, viz., that their lands were equally divided among all the issue male, and did not descend to the eldest son alone. By other subsequent statutes their provincial immunities were still further abridged; but the finishing stroke to their dependency was given by the statute 27 Hen. VIII. c. 26, which at the same time gave the utmost advancement to their civil prosperity, by admitting them to a thorough communication of laws with the subjects of England. It was enacted by this statute of Henry VIII.—1. That the dominions of Wales should be for ever united to the kingdom of England. 2. That all Welshmen should have the same liberties as other of the king's subjects. 3. That lands in Wales should be inheritable according to the English tenures and rules of descent. 4. That the laws of England, and no other, should be used in Wales;—besides many other regulations of the police of the Principality. And the 34 & 35 Hen. VIII. c. 26 confirmed the same; added further regulations, divided the country into twelve shires, and, in short, reduced it to the same order in which it stands at the present day, differing from the kingdom of England in only a few particulars.

The Act to prohibit the sale of intoxicating liquors on Sunday in Wales was passed on the 27th of August, 1881 (44 & 45 Vic. c. 61), providing that in the Principality of Wales all premises in which intoxicating liquors are sold or exposed for sale by retail shall be closed during the whole of Sunday, subject to the rights of *bona fide* travellers; and it is provided that nothing in this Act contained shall preclude the sale at any time at a railway station of intoxicating liquors to persons arriving at or departing from such station by railway.

Wapentake. Part of any hundred of a county.

War, Articles of. See "Articles of War."

War Department, Secretary of State for the. In the year 1795 a Secretary of State for the War Department was created, and in the year 1801 the colonial correspondence was transferred to the office. In the first instance, and during the whole course of the European war which was then raging, the principal business of the Colonial Department was to exercise a general control over all the military departments, the Secretary at War, the ordnance, and the commander-in-chief. It was one

head which directed all their operations to one common end ; and as long as the Secretary of State made this his principal duty the arrangement was a good one. The Secretary at War was then, in point of fact, a sort of subordinate to the Secretary of State for the War Department. But at the end of the war, the mere military business diminished in importance, and on the other hand the civil business of the colonial office was rapidly increased in consequence, because it was found that, during the war, attention was very much turned away from the civil affairs of the colonies, and that everything yielded to the superior importance of military business. The result of that change after the peace was, that gradually the Secretary of State for the War and Colonial Departments came to exercise less and less control over any details of military arrangements, and his attention came to be more and more occupied in the civil affairs of the colonies. As the extent of correspondence increased, that augmented ; and the effect was that for thirty years the military affairs of the country were transacted by three or four different departments, and virtually without any one effective head to direct their measures to a common end. The bad results of this system were shown in the course of the Crimean War ; and accordingly, in 1854, the duties of Secretary of State for War and the Colonies were separated, the office of Secretary at War abolished, and the control of military matters placed entirely in the hands of the Secretary of State for War only. This concentration of power and authority was followed by the abolition of the ordnance and medical boards, and a complete remodelling of the whole of the war department.

War and Peace. The sole prerogative of making war and peace is vested in the Crown ; so that in order to make a war completely effectual, it is necessary with us in England that it be publicly declared and duly proclaimed by the royal authority, and then all parts of both contending nations are bound by it. Parliament has, however, now for many ages been able to control the government in this respect by means of its control over the public purse, and by displacing the ministers who have advised the Crown to commence any particular war or to conclude a peace.

Ward. See "Guardian and Ward."

Wardmote. A court held in every ward in London. The wardmote inquest has power to inquire into and present all defaults concerning the watch and police doing their duty ; to

see that engines, &c., are provided against fire ; that persons selling ale and beer be honest and suffer no disorders, nor permit gaming, &c., and that they sell in lawful measures ; the court also institutes searches for beggars, vagrants, and idle persons, &c., with a view to their punishment.

Wards and Liveries, Court of. A court erected^d by Henry VIII. and abolished by 12 Car. II. c. 24.

Warrant of Arrest. A warrant of arrest may be granted in cases of treason or other offence affecting the government by the Privy Council, or one of the Secretaries of State. Moreover, any judge of the Court of the Queen's Bench Division may issue his warrant to bring before him for examination any person charged with felony ; and such judge has power to grant a warrant for commitment in cases of misdemeanour, upon indictment found or information granted in the Queen's Bench Division. A like power to which is exercised by courts of oyer and terminer, and by the justices at sessions upon indictments, either for felony or misdemeanour, found within their jurisdictions respectively. But warrants are ordinarily issued by justices of the peace out of sessions—a subject in which the law has lately been consolidated by 11 & 12 Vic. c. 42. This statute provides, in substance, that in all cases where a charge or complaint shall be made before one justice of the peace or more, for any county or place in England or Wales—that any person has committed, or is suspected of having committed, any treason or other felony, or any indictable misdemeanour or offence whatsoever, within the limits of their jurisdiction ; or that any person who has committed, or who is suspected of having committed, such offence out of their jurisdiction, resides, or is suspected to reside or be, within the same ;—then (if the party shall not be in custody) the justice or justices may issue a warrant to apprehend him, and may cause him to be brought before them, or any other justice or justices of the same county or place, to answer for the charge or complaint, and to be dealt with according to law ; or they may at their discretion issue a summons in the first instance—in lieu of a warrant—and forbear to proceed by warrant until the summons has been disobeyed. But there is this distinction : that, where a warrant in the first instance is applied for, an information or complaint in writing and upon oath must be laid before the justices ; but when only a summons, the information or complaint may be by parole, and no oath is necessary. The form of the warrant is prescribed by the statute itself, and a warrant properly penned, even though the magistrate

who issues it should exceed his jurisdiction, will by statute 24 Geo. II. c. 44 at all events indemnify the officer who executed the same ministerially. On the other hand, when a warrant is received by the officer, he is bound to execute it so far as the jurisdiction of the magistrate and himself extends; and he may break open doors in order to execute a warrant for treason, felony, or actual breach of the peace, provided, on demand, admittance cannot otherwise be obtained. Nor is there any immunity from arrest for any such offence in the night time, nor from an arrest for any indictable offence on Sundays. A justice of the peace may also issue a warrant, not only to apprehend a person suspected of felony, but to search his premises for goods alleged to be stolen; and by 24 & 25 Vic. c. 96, sec. 103. if any credible witness shall, upon oath, prove before a justice of the peace a reasonable cause to suspect that any person has in his possession, or on his premises, any property whatsoever, in respect to which any offence punishable under that Act shall have been committed, the justice may grant a warrant to search for such property, as in the case of stolen goods; and any person to whom any such property shall be offered to be sold, pawned, or delivered, is required (if in his power) to apprehend and carry before a justice of the peace the person so offering the same, together with such property. A warrant from the chief or other justice of the Court of King's Bench extends all over the kingdom; and is *tested* (or dated) *England*; not *Oxfordshire, Berks, or other particular county*. But the warrant of a justice of the peace in one county, as Yorkshire, must be *backed*, that is, indorsed by a justice of the peace in another, as Middlesex, before it can be executed there. Formerly, regularly speaking, there ought to have been a fresh warrant in every fresh county, but the practice of backing warrants had long prevailed without law, and was at last authorized by statutes; of which the most recent are the 11 & 12 Vic. c. 42, and the 14 & 15 Vic. c. 55, sec. 18. By these statutes a warrant issued in England or Wales may be backed, not only in another English county or place, but in Scotland, Ireland, or the Channel Islands, or *vice versa*.

Warrant, a General, is a warrant to arrest such and such a person or persons who have done such and such a thing (as the printers and publishers of such and such a libel), without naming them. The celebrated Wilkes was arrested on a general warrant of this description; it was, however, decided that his arrest was illegal, and also that general warrants were illegal in their form, as they assume a guilt which remains to be proved.

Warranty is a guarantee of the value or quality of something, or of the validity of title. The giver of the warranty, in addition to being liable to make good the defects that may be proved, is answerable in damages for any injury consequent upon the defects.

Wash-Houses. See "Baths."

Water-course. When a water-course runs through or along the boundary of land, the owner of the land is entitled to all the advantages of the water, according to what has been customary. If he uses it for drink of either man or beast, or for fishing, he is entitled to damages on account of its pollution. If he requires it for any process or power, he is entitled to damages on account of any considerable diminution of the quantity. In this respect the degree of quality and the extent of quantity depend upon prescription. If it has always been polluted, he cannot require the pollution to discontinue that he may drink; if a higher neighbour has used a quantity of the water for any process, he is not bound to diminish his consumption that his lower neighbour may start a new process. It is all a matter of evidence.

Waterworks' Clauses Acts. These Acts for facilitating the construction and maintenance of waterworks were passed in 1847 (10 & 11 Vic. c. 17) and 1863 (26 & 27 Vic. c. 98). They are very elaborate, and essential to be mastered by all who are specially interested in the subject.

Ways. The rights of way along paths and roads of all kinds are governed by Prescription. (See also "Rights of Way.")

Ways and Means, Committee of. When the Commons have voted a supply to the Crown and settled the quantum of it, they usually resolve themselves into what is called a Committee of Ways and Means (which is a committee of the whole House), to consider by what means the supply voted is to be raised. In this committee every member (though it is looked upon as the peculiar province of the Chancellor of the Exchequer) may propose such scheme of taxation as he thinks least detrimental to the public.

Weights and Measures Act, 1878 (41 & 42 Vic. c. 40). This Act supersedes the previous law on the subject, though for the most part leaving it unaltered, only confirming what was in force before. The Act defines the imperial standards for both weights and measures; gives power of national supervision to the Board of Trade, and local supervision to local authorities. It provides for inspectors, stamping, voluntary inspection, com-

pulsory inspection, and penalties for incorrect and unstamped weights and measures.

Welsh Mortgage is where there is no stipulation for repayment. It operates very much as an equitable lien of an unpaid vendor, and subject to the general law of Mortgage.

Westminster, Statutes of. These Acts are of great importance to the student, as forming the bases of much modern law. They are respectively called the First, the Second, and the Third, and were all passed in the time of Edward I., in 1275, 1285, and 1290.

Whig. This word properly signifies sour milk. It was applied in Scotland, A.D. 1648, to those violent covenanters who opposed the Duke of Hamilton's invasion of England, in order to restore Charles I. The appellation of Whig and Tory to political factions was first heard of in A.D. 1679, and though as senseless as any court terms that could be devised, they became instantly as familiar in use as they have since continued. (See Hallam's "Constitutional History," c. 12.)

Widowers. If a wife dies intestate the whole of her property goes to her widower. If she makes a will she is legally entitled to leave her husband all her property, or none, or so much of it as she thinks proper. If none is left to him he has no rights corresponding to the paraphernalia of a widow. (See also "Curtesy.")

Widows. The legal rights of widows extend in all cases to paraphernalia. When the husband dies insolvent this extends only to necessary clothing, but if solvent at the time of his death, then paraphernalia of his widow extends to all clothing and ornaments (however costly) that she has ever worn, and all cloth already bought for her clothing; and nothing, not even the will of the husband, can deprive her of that. Beyond that the husband, if he chooses to make a will to that effect, is legally entitled to leave his widow penniless, or he may leave her the whole of his personalty and unsettled land, or so much as he thinks proper subject to any terms he may prescribe. If the husband dies solvent and intestate, his widow, if there is a child or children, is entitled to one-third, if no children to half. (See also "Dower.")

Wild Birds' Protection Act, 1880. By this Act a close time is appointed for all wild birds, extending from March 1 to August 1 in every year, which time may be varied in some years and in particular districts. Occupiers of land may, on their own occupation, kill sparrows, linnets, tits, larks, thrushes, and any

common small birds, in close time or at any time, but during such close time they must not take or kill any other birds as enumerated at great length in the Act. And during close time, except upon land in own occupation, it is unlawful for any person to wound or take any wild bird, or to attempt to kill, wound, or take, or to use any boat, gun, net, or other means, with intent to kill, wound, or take any wild bird; and it is unlawful to have in possession (alive or dead) any wild bird between March 15 and August 1, unless it be proved to have been taken or killed before March 1. The penalties for infringement vary from reprimand and costs to five shillings and twenty shillings for every bird concerned.

Wills. The solemnities required by law to be observed in making a will are regulated by 7 Will. IV. and 1 Vic. c. 26, which repealed all previous enactments as to wills made after January 1, 1838. This Act provided that no will—with the exception of those made as to personal estate by soldiers and seamen in certain cases, as provided for by former statutes—shall be valid unless in writing and signed at the foot or end thereof by the testator, or some other person in his presence or by his direction; such signature being also made or acknowledged by him in the presence of two or more witnesses present at the same time, and such witnesses attesting and subscribing the will in his presence. (The attestation clause usually runs as follows:—"Signed, published, and declared by the said A. B. (the testator) as and for his last will and testament, in the presence of us, present at the same time, who, at his request, in his presence and the presence of each other, have hereunto subscribed our names as witnesses. (Signed) C. D. and E. F.") Where these requisites are complied with, no other is now imposed by law; and the statute expressly enacts that no publication other than is implied in the execution so attested shall in future be necessary. In the case of either of the attesting witnesses taking a benefit under the will, it is provided that the will shall not be void on that account, but that the particular beneficial gift or appointment to such witness shall be void. A person appointed executor in the will is competent to attest it. A will is revoked *ipso facto* by the subsequent marriage of the testator or testatrix; or by another will or codicil, or some writing of revocation executed like a will; or by burning, tearing, or otherwise destroying the original will, with the intention of revoking it, by the testator or some person in his presence, or by his direction. With the exception of the above, no Act

whatever subsequent to the execution of the will shall prevent its taking effect on any estate which the testator shall have power to dispose of at the time of his death. At the death of the testator, the executor or executors appointed in the will prove it in the Court of Probate. But, even independently of such proof, all the personal estate of the deceased vests in them. Their duty is then to wind up the testator's estate and distribute it according to the instructions in the will. If there be no executor appointed, or if the executor appointed has died intestate or refuses to act, the Court of Probate will grant letters of administration with the will annexed to one of the next of kin applying for it, whose duty it then is to give effect to the terms of the will.

Winding Up. See "Companies."

Wine Licences. See titles "Public Houses" and "Refreshment Houses."

Witenagemot. The great council by which an Anglo-Saxon king was guided in all the main acts of government bore the appellation of Witenagemot, or the assembly of the wise men.

Withdrawal of a Juror. This is when the parties to an action agree to stop the trial. If it should afterwards be resumed, the defendant is entitled to stay the action until the plaintiff can show special cause for resuming it.

Without Prejudice is when a compromise is offered. It means that if the compromise be not accepted, the offer is not to prejudice the right of the party who offers the compromise to better terms, or all that was originally suggested before the compromise was offered. The law fully recognizes the proviso of "without prejudice."

Without Reserve. An auction announced without reserve binds the auctioneer to accept the highest price offered, and secret biddings are void and may be set aside.

Women. See "Husband and Wife."

Woods, Forests, Land Revenues, Works and Buildings, Board of Commissioners of. A Board established by 2 & 3 Will. IV. c. 1, and divided by 15 & 16 Vic. c. 62 into a Board of Commissioners of Her Majesty's Woods, Forests, and Land Revenues, and a Board of Commissioners of Her Majesty's Works and Public Buildings. This latter body has the management of the royal parks in and near London.

Woolsack. The seat of the Lord Chancellor in the House of Lords. When, in the reign of Elizabeth, an Act of Parliament was passed to prevent the exportation of wool, woolsacks

were placed in the House of Lords for the judges to sit upon, in order to serve as a perpetual reminder of this source of national wealth.

Workmen. See "Employers," "Bankruptcy," and the "Companies Act, 1883." Also "Wages."

Workshops. See "Factories."

Works, Metropolitan Board of. A Board appointed under sections 43 to 53 of the Metropolis Local Management Act (18 & 19 Vic. c. 120). The Board is made a body corporate. The members are to be elected in certain proportions by the Corporation of the City of London and by the vestries of the several parishes included in the Act; and one-third of the members are to go out by rotation in each year, and the place of any member dying, resigning, or otherwise ceasing to be a member is to be supplied by the body or vestry by which he was originally elected. The Board are to hold meetings and appoint a chairman with a salary.

Worship. See "Public Worship."

Wreck. Such goods as after a shipwreck are cast upon the land by the sea and left there within some county, for they are not wrecks so long as they remain at sea in the jurisdiction of the Admiralty. If any live thing escape, or if proof can be made as to the ownership of any of the goods or lading which come to shore, they shall not be forfeited to the Crown as such. The sheriff of the county is bound to keep the goods a year and a day, that if any man can prove a property in them, either in his own right or by right of representation, they shall be restored to him without delay; but if no such property be proved within that time, they shall then go to the Crown. If the goods be of a perishable nature, the sheriff may sell them and the money shall be liable in their stead. This revenue of wrecks is frequently granted to lords of manors as a royal franchise.

Writ. A judicial process by which any one is summoned as an offender; also a legal instrument to enforce obedience to the orders and sentences of the courts.

Writer to the Signet, also called Clerk to the Signet; the name given to persons who in Scotland perform duties analogous to those of attorney and solicitor in England.

Yeoman. A yeoman is he that hath free land of forty shillings value by the year; who was anciently thereby qualified to serve on juries, vote for knights of the shire, and do any other Act, where the law requires one that is *probus et legalis homo*.

Yeomanry. A volunteer force of cavalry in Great Britain, numbering about 14,000 men, and costing the country about £85,000 a year. It was originally formed during the time of the wars of the French Revolution, and then comprised infantry as well as cavalry; but the whole of the infantry corps and many of the cavalry were disbanded at the end of the war. The organization of the corps is by counties, and was, until the Army Regulation Act of 1871, under the lords lieutenant. By that Act, however, the immediate control of the yeomanry was resumed by Her Majesty. The men provide their own horses and uniform; in consideration of which they receive annually a clothing and a contingent allowance of £2 a man, are exempt from taxation in respect of the horses employed on yeomanry duty, and draw during the annual training two shillings per day for forage, besides a subsistence allowance of seven shillings per day. If called out for permanent duty they receive cavalry pay, with forage allowance. The yeomanry are available in aid of the civil power; and in time of invasion, or apprehended invasion, the Sovereign may embody them for service in any part of Great Britain under the provisions of the Mutiny Act.

THE END.

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